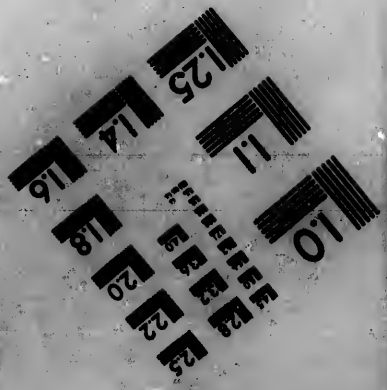
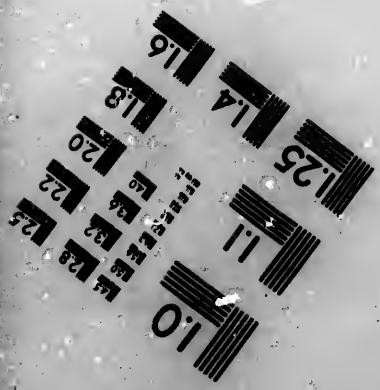
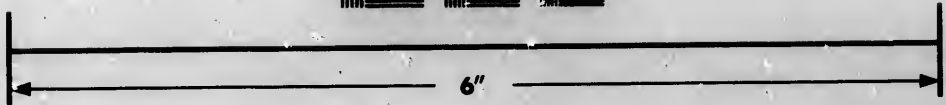
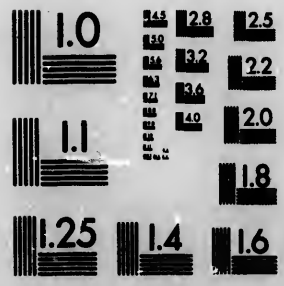


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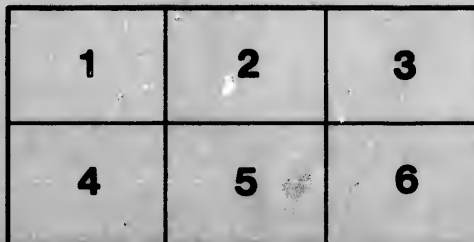
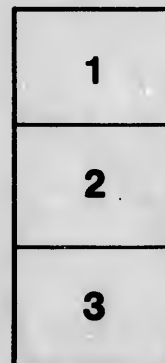
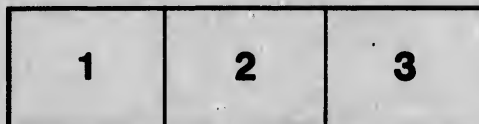
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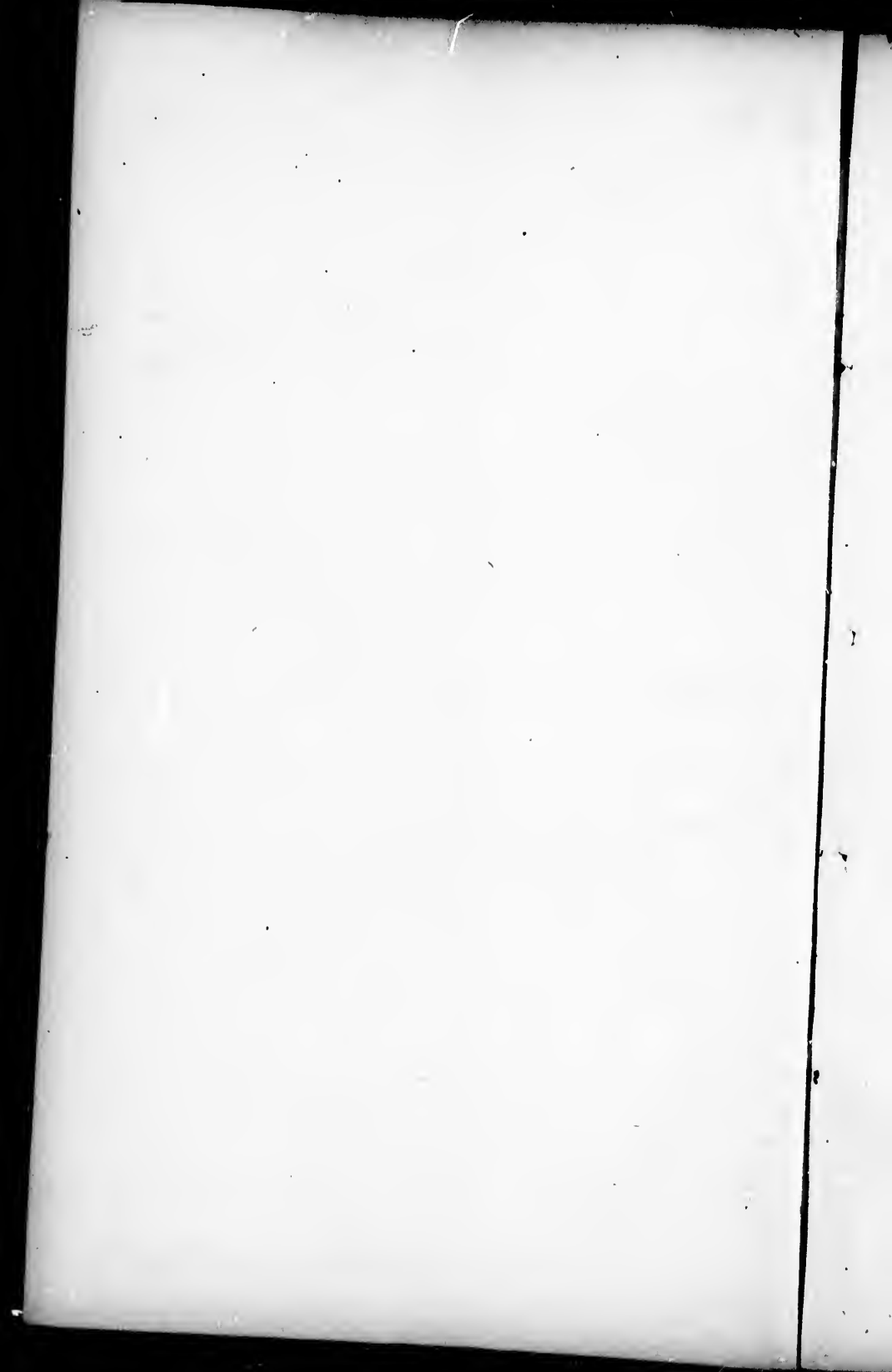
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OBSERVATIONS
ON
DR PRICE'S
THEORY and PRINCIPLES
OF
CIVIL LIBERTY and GOVERNMENT,
PRECEDED BY
A LETTER to a FRIEND,
ON THE
Pretensions of the AMERICAN COLONIES,
In respect of
RIGHT and EQUITY.

Dissentientium inter se reprehensiones non sunt vituperandæ: maledictæ, contumeliæ, tum iracundiæ, contentiones, concertationesque in disputando pertinaces, indignæ mihi philosophia videri solent: ----- neque enim disputari sine reprehensione, nec cum iracundia aut pertinacia recte disputari potest. CICERO *de fin. Bon. & Malorum.* Lib. i. 8.

Y O R K :

Printed by A. WARD, for J. DODSLEY, T. CADELL, and R. BALDWIN, London; and J. TODD, in Stonegate, York. 1776.

THE HISTORY OF THE

REPUBLIC OF

THE UNITED STATES OF AMERICA

BY

WILLIAM BRADEN

1877

NEW YORK

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THE UNITED STATES OF AMERICA

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1877

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OF THE

E D I T O R,

I Have not scrupled to make use of the permission to publish these Observations on Doctor PRICE's Theory and Principles, together with the Letter that precedes them. The Doctor and others have been particularly confident in appealing to those principles as uncontrovertibly founded on Reason, and supported by the best Authorities. With these confident pretensions the Observations of my friend seem worthy to be contrasted; and as the Doctor particularly objects to nameless antagonists, I have prevailed on him to suffer his name to appear at the end of the Letter.

Any attempts to reconcile perfect Liberty with Government must ever fail, as they always have done hitherto, ^{either} either in theory or practice; and to set up public pretensions to it is unhappily deluding the unwary and undiscerning part of the people, and sowing the seeds of unreasonable discontent. Doctor PRICE's system seems reducible into as little compass

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as that, within which Mr. LOCKE comprizes the scheme of Sir ROBERT FILMER's Patriarcha,—— only just in the other extreme. FILMER's; That all Government is absolute Monarchy, and the ground he builds on is this, That no man is born free. Doctor PRICE's; That all Government is or ought to be a Democracy, and the foundation of his system is this, That self-government is unalienable. Between these two are several mediums, which Reason and Experience recommend, and which have the sanction of Mr. LOCKE and of the most esteemed writers on Civil Government.

Many answers have been published to Doctor PRICE's pamphlet, but none, it is presumed, that supersede the utility of this; the special intent and object of which are sufficiently explained by the writer himself. The haste, with which things of this temporary nature are written and published, may possibly have left some small inaccuracies of style and expression; for which the critical and candid reader will make due allowance. One error of the press, as being a very material one, I must mention here; it occurs page 44 in the note, line 14, where for resistible read irresistible.

June 20, 1776.

C O N T E N T S.

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ERRATA.

Page 23.	line 9.	For <i>particularcir cumstances</i> read <i>particular circumstances</i>
27.	l. 14.	For <i>principle</i> read <i>principles</i> .
44.	note l. 14.	For <i>refstible</i> read <i>irrefstible</i> .
61.		For <i>gouvernemens</i> read <i>gouvernemens</i> .
		For <i>Liv. x.</i> read <i>Liv. xi.</i>
112.	l. 26.	For <i>resolutions</i> read <i>revolutions</i> .
113.	l. 1.	For <i>resting</i> read <i>vesting</i> .

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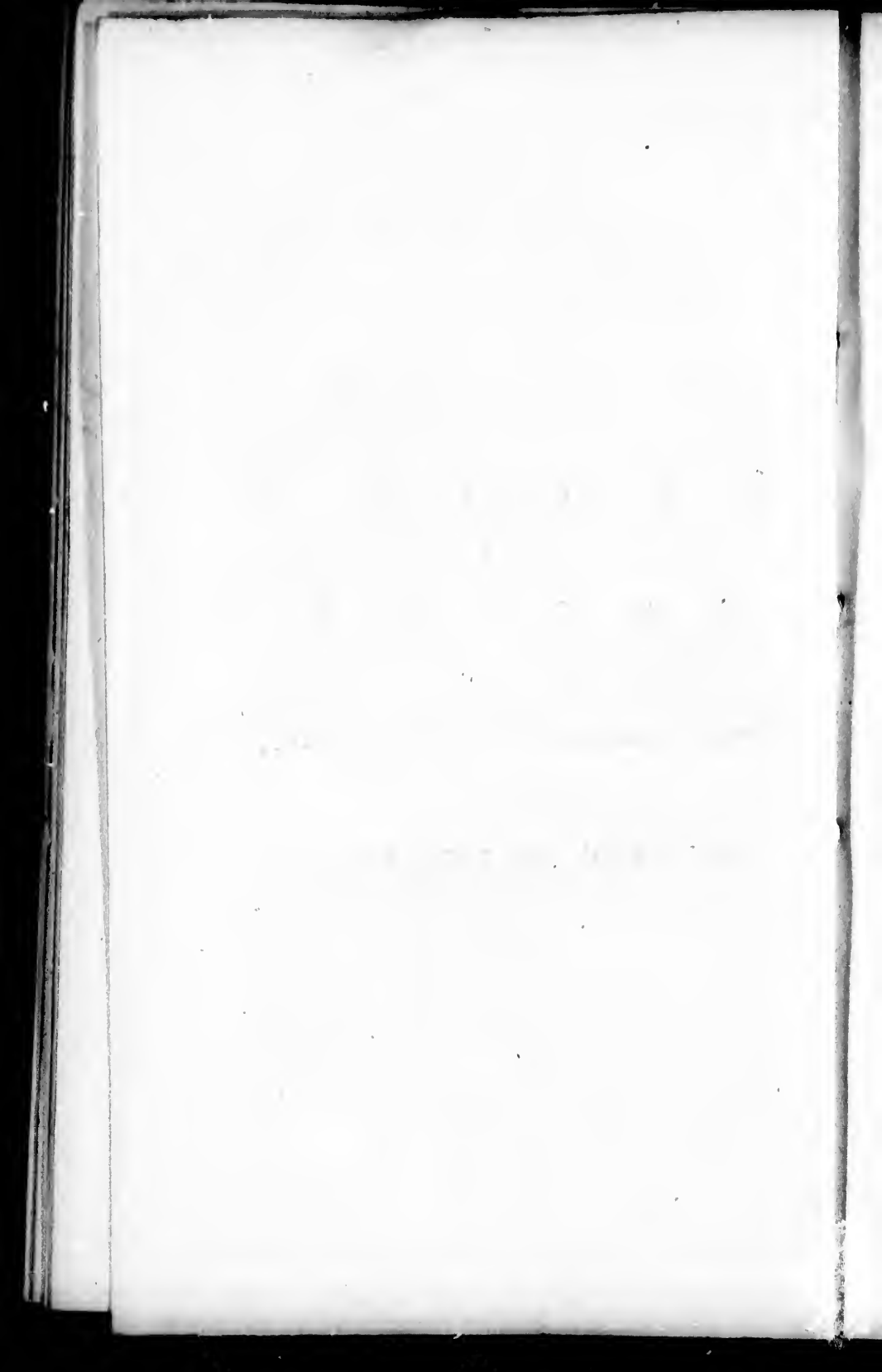
F R I E N D,

ON THE

Pretensions of the AMERICAN COLONIES,

In respect of

R I G H T and E Q U I T Y.



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On the Pretensions of the AMERICAN
COLONIES, in respect of

R I G H T and E Q U I T Y.

DEAR SIR!

I Herewith send you my *Observations* on
Doctor PRICE's Principles of Government
and Civil Liberty. If they appear to you
just and important, you are welcome to make
them public, together with this Letter. You
will observe, that I have concerned myself
merely with the *Principles* themselves,—not with
the *Application* he makes of them to the Ame-
rican controversy. Indeed if the Principles
cannot be supported, the Application fails of
course. There are however many other things
made use of in the Doctor's Pamphlet, in order
to point out the injustice of the sovereignty
claimed by Parliament over the American Co-
lonies,

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lonies, as well as the impolicy, iniquity, dishonour, and evil consequence of maintaining it by force of arms. But neither with this, or with that controversy, have I meddled in the following Observations. My pen has been actuated by views of a more general nature. The case is this: It seems to me, that the American pretensions have very often been supported on exceeding unwarrantable and licentious principles, as well in regard to Liberty and Civil Government in general, as to the Constitution of this Country in particular. To take notice of all the trash of this kind, that comes before the Public in a country, where there is happily so much legal freedom of speaking and writing as in this,—would be an idle occupation. Candor also will lend, in some cases, the most favorable construction possible to the unguarded assertions, that seem to proceed from a general zeal for Liberty: yet as *there cannot be*, according to Mr. LOCKE's remark *, *a greater mischief to Prince and People, than the propagating wrong notions concerning Government*; therefore when particular circumstances mark such sentiments with unusual importance; when they are so determinately delivered as to preclude all benign interpretation; when

* On Government, preface.

when they are applied and asserted in such a manner, as to loosen the bonds of civil Society, and unsettle the just principles, on which all civil Government and our own excellent Constitution are founded; when they are falsely imposed upon us, as the sentiments of the most admired writers on Government and civil Liberty, as the principles of our own constitution, as the foundation of the Revolution and of the accession of the House of Hanover; when they are cried up as the only foundation of all true, invaluable, unalienable LIBERTY, and every state, disagreeing with them, is stigmatized with the odious name of SLAVERY;—in such, and such like circumstances, there is surely a peculiar propriety in a decent, candid, and rational opposition to their unjustifiable pretensions. This I apprehend to be the case at present; and it is under a sense of that propriety the Observations here transmitted to you on Doctor PRICE's principles have been penned, with a view to obstruct their propagation. The uncommon sanction they have met with; the great stress he himself lays upon them; and the literary reputation of the Author, engaged me to set myself in opposition to this publication in particular. With what success, you and my readers must judge.

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You

You wish also to have my sentiments on the controversy with the Colonies. If you want me to speak positively and determinately, as is the manner of some, on every point relating to it; that is what my information, and the evidence before me, will not allow: but I will not scruple in the least to communicate them to you, with that degree of evidence, they are accompanied with in my own mind, and to illustrate and confirm them by remarks on several parts of Doctor PRICE's pamphlet, that relate to the subject. I shall devote the remaining part of this Letter to that purpose; desiring to keep all discussion, concerning the American controversy, separate from the subsequent *observations* on his Principles of Civil Liberty and Government.

§ 1. There is not, Sir, with me the smallest grain of doubt of the Parliament being, to all intents and purposes of Government, and as far as that trust extends, *sovereign and supreme* over the whole British Empire, unless special exemptions can be produced. The Constitution and its principles neither know, nor admit of, any other. But to speak, in the first place, more particularly to the original question concerning Taxation; the American Colonies asserted in 1765 as follows: " That the Taxation of the people
" by

“ by themselves, or by persons chosen by them-
“ selves, to represent them, is the distinguish-
“ ed characteristic of British freedom.” VIR-
GINIA.—“ That the constitution of government
“ in this province ought to be perfectly free.
“ That the Taxation of the people of this pro-
“ vince by any other persons whatsoever, than
“ the Representatives they annually elect to
“ serve as Members of Assembly, is unconsti-
“ tutional and subversive of public liberty, of
“ their birth-right and indubitable privileges.”
PENSYLVANIA.—“ That all Acts by any
“ Power whatever, other than the general Af-
“ sembly of this province, imposing taxes on
“ the inhabitants, are infringements of our in-
“ herent and unalienable Rights as Men and Bri-
“ tish subjects, and render void the most valu-
“ able declarations of our Charter.” MASSA-
CHUSETTS.—“ That no taxes ever have, or can
“ be constitutionally imposed on the people of
“ these Colonies, but by their respective Le-
“ gislatures, as being their only Representa-
“ tives.” CONGRESS at *New-York*. *

These

* See these *Resolves* of those several bodies in the *Appen-
dix to the Controversy between Great-Britain and her Colonies
reviewed*, London, 1769.

These seem to me very groundless positions. I think there cannot be a more evident truth, than that the right of taxing any part of the British empire, and consequently the American Colonies, unless particularly exempted by grant or compact, is legally and constitutionally resident in the Parliament. Nor do I find that the American Colonies (excepting *Maryland*) are at all exempted from this general subjection by any charters, grants, or compacts: with that exception, the invalidity of their charters, to exempt them from Parliamentary taxation, has been clearly demonstrated by the able writer of *Remarks on the Acts of the thirteenth Parliament of Great-Britain*; and in the *Pensylvanian* charter there is a clause clearly decisive on this point against that province, and consequentially against the others. I therefore conclude the Colonies, as members of the British community, to be, by Law and Constitution, subject to the supreme authority of Parliament in regard to taxation, just the same as any other part of the community. This may be *right* or *wrong* according to principles of *natural* equity;—it is nevertheless fact; it is nevertheless the *Law* and the *Constitution* of the British Empire.

§ 2. Much has been said on this occasion about the *Principles* of the Constitution; with a view to prove, that, according to them, the Colonies *are* or *ought* to be perfectly free, and independent of the authority of Parliament, in regard to taxation. After considerable investigation, I can find no principles in the Constitution, that imply any such thing, but many, that loudly speak the reverse. The grand topic in this line of argument is,—That *it is a principle of the British Constitution, that no British subject can be taxed but with his own consent*. If the arguments, used to support this position, be allowed, they will equally prove, that, according to the principles of the Constitution, no American subject can be bound by any law or regulation without his *own* consent,—and that the Colonies ought to be their *own legislators*, as well as their *own taxers*. Consent, whether *personal*, or by *delegation*, has no more constitutional connection with taxation, than with every other right of the supreme power. But the truth is, the position itself, as understood in this application of it, is destitute of all foundation. Like the prerogative axiom, *The King can do no wrong*, it is indeed true in a particular qualified sense of the words; but if taken literally, and strained beyond the only meaning warranted

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warranted by Law and the Constitution, it is false, and capable of very mischievous application. If you understand by the words *own consent*, the consent of both Houses of Parliament, of which the Commons are a body delegated, by a stated mode of election, to be the Representatives of the people at large; the maxim is perfectly agreeable to truth; and in this sense has justly been laid down as a privilege of our Government: but in that strict sense of consent, either *personal*, or by a *representative of one's own choice*, in which it is applied to support the American pretensions, it is a very false, absurd, and licentious doctrine; as I mean to have evidently shewn in some observations in the *York Chronicle* of the 7th and 14th of April last year, under the signature of LIBERIUS. The person, who then advanced it, being misled by the authority of others, was much surprized at my requiring him to prove what he had taken upon trust, as an uncontrovertible and universally acknowledged truth, and was probably much more astonished, upon mustering together all the forces he could collect, to find that, though otherwise good troops, they were totally insufficient for that service.

That

That the people of America share not so largely as the inhabitants of England and Scotland in those checks or securities, which the *principles* or *actual state* of our Constitution wisely afford against the abuse of civil power in general, or of the important power of taxation in particular,—I readily allow. Pretensions of this kind have some foundation in equity and our free government:—more of this presently.

§ 3. But the Leaders of the American Colonies and their advocates are not content with such pretensions, nor with resting their more important ones on *charters*, and the *principles of the Constitution*; they ascend to a higher source than either; they desire to bring the question to a *higher test and surer issue*, as they term it*. It is said to be repugnant to the *Law of Nature*, and the *essential unalienable rights of Mankind*, that the Colonies should be subject to taxation by Parliamentary authority, or by any authority but of their own general Assemblies. Now if this be true, I am sure, that by the *same principles*, every other right, every other power of Parliament over them, not forgetting the almost only one now uncontested of regulating their commerce, which some so inconsistently main-

B tain,

* PRICE'S *Observations on Civil Liberty, &c.* p. 32, 41.

tain, must fall to the ground: I contend, that the same *natural* principles, which prove, that the Parliament cannot have a right to tax them, will equally prove that body of men to have no manner of civil or coercive authority over them whatever. If they have a *natural unalienable* right to tax themselves, they have the *same* right to govern themselves, and regulate their own affairs, according to their own discretion. And in fact, to this extent do almost all the arguments, that have been manufactured from such general principles, reach. They set the American part of the Empire quite afloat from the rest, and extend to an entire civil independance. To instance from the grand topic of all; to wit, "that no man or number of men can, "consistent with *natural right and justice*, be "taxed, but by the actual consent, either of "themselves in person, or of representatives "chosen freely by themselves:" now if this be granted, it is evidently equally contradictory to *natural right*, that any man, or any communities of men, should be *governed or controlled* at all in their own concerns without such actual consent. However you understand, limit, or qualify that position, it will in the same sense, with the same limits, and the same qualifications, apply to every act and ordinance of civil Government,

vernment. Whatever sort of consent be necessary, by *natural right*, to the taxation of a man's property, the very same is equally necessary to any governmental disposition over his person or actions; for it has evidently no more *natural* connection with taxation, than with every other power of Government.

Doctor PRICE's principles of civil Liberty go also the same length; which he himself seems to allow in two or three places; though he has chosen, he says, to confine his views (but for what reason?) to *taxation* and *internal legislation**: the latter is indeed now become, by a very natural course of things, a part of the question in dispute between this Kingdom and the Colonies. They at first confined *their* views to the power of *taxation*; now they extend them to *internal legislation*. The topics they argued from against the former,—and the very disagreeable exertions of Parliamentary legislation and coercive power, consequent upon their resistance,—naturally led to this removal of the boundaries of the original question; and must as naturally lead on their views, as circumstances permit, to the removal of every power they judge disagreeable.

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§ 4. The

* See page 37, 28, 100.

§ 4. The question therefore is now, in fact, as DoCTOR PRICE gives it,—“Whether the “American Colonies are bound to be subject “to the jurisdiction of the Parliament, in re- “spect of taxation and internal legislation?” * Accordingly the general *Congress*, held at *Philadelphia* in 1774, assert,—“that as the English “Colonists are not, and from their local and “other circumstances can not be, represented “in the British Parliament, they are entitled to “a *free and exclusive* power of *legislation* in their “several provincial legislatures, in all cases of “*taxation and internal polity*, subject only to the “negative of their sovereign,” viz. the King †.

I have not, as I said before, a grain of doubt about the sovereignty and supremacy of the Parliament over the whole British empire, unless special legal exemptions can be pleaded. This is agreeable to the Constitution and its principles. The American Colonies are a part of the British empire, and have no such exemption to plead, except *Maryland*, in point of taxation. On the contrary, their Charters, and the

* Page 42.

† *Extracts from the votes, &c. of the American Congress, held the 5th of September, 1774. Resolve the 4th.*

the first settlements in America, bear upon the face and circumstances of them an avowed general submission to the Government as by law established in this country. The social compact is in most cases only an implied agreement; but in this it has been explicitly recognized and renewed, with certain modifications, as were judged agreeable to the circumstances. The Colonists settled in a distant part of the earth, under the express avowal and claim of being *British subjects*, members of the British community; under sanction of the common protection and authority; under acknowledgment of a general subjection to the established supreme legislature; under certain charters and stipulations settled by the legal powers then existing;—which charters and stipulations not only in themselves implicitly suppose, but contain express reserve of, their remaining under the authority of the one common supreme Legislative. Nothing can be more evident, than that such transactions as these speak aloud very plainly the subjection of the Colonists to Parliament, in regard to every branch of civil power, from which they are not by grant or charter exempted. And accordingly it has constantly and uninterruptedly exercised all such legislative and governmental powers, as have been judged expedient,

expedient, in all sorts of concern; and also enforced this its own constitutional right and supremacy over the Colonies, by an express statute in King William the *third's* time, when some feeble attempts were made against it. "When Lord Chatham," says the noted JUNIUS, "affirms that the authority of the British legislature is not supreme over the Colonies, in the *same* sense, in which it is supreme over Great Britain,—I listen to *him* with diffidence and respect, but without the smallest degree of conviction or assent." *

This being clearly the case,—the leaders and advocates of our fellow-subjects in America endeavour to turn our views now entirely from those transactions and the Colonial charters to other

* *Letters, &c.* vol. II. p. 268. Dr. PRICE asks, p. 49, "Did they not settle in America under the faith of Charters?" Doubtless; and this Country claims their subordination to Parliament under the *faith* of those *Charters*.—"Did not these Charters promise them the enjoyment of all the rights of Englishmen?" None inconsistent with the sovereign supremacy of Parliament; no *exclusive* right of self-legislation and self-taxation by their own Assemblies: that would imply a contradiction. For the rest, the allowing them to tax themselves, and to have subordinate local legislatures of their own, excludes not in the least the supreme authority of Parliament.

other more pliable principles; saying, "that the supreme authority of Parliament over the Colonies is contrary to right and justice, and therefore never could be established by any compact, stipulations, or acquiescence:"—"Had "there been," says Doctor PRICE, "express stipulations to this purpose in all the charters "of the Colonies, they would, in my opinion, "be no more bound by them, than if it had "been stipulated with them, that they should "go naked, or expose themselves to the incur- "sions of wolves and tigers.—The question "with all liberal enquirers ought to be, not "what jurisdiction over them *Precedents, Sta- "tutes, and Charters* give, but what reason and "equity, and the rights of humanity give."*

Thus we are got again to principles of *natural right*: and I answer again, that according to these, the Doctor should have *extended his views* further than to *taxation and internal legisla- tion*†: for these same principles will equally prove the Parliament to have no civil authority whatever over the Colonies. They have as good a *natural right* to regulate their own trade, and their

* Page 41, 32.

† Page 100, in the *Note*.

their own connections with other states, as to be their own internal legislators. Accordingly Mr. MOLYNEUX, when he argued against *Ireland's* being bound by Acts of the British Parliament, on the principle,—“ that the Irish had no *share* “ in making those laws, and that Slavery is the “ being bound by laws to which we do not “ consent” (the very principles adopted by Doctor PRICE *), very consistently denied the Parliament's right to make any laws, even to regulate the trade of Ireland;—in this much more fair and consistent than the present assertors of those principles in favour of America, who still maintain the Parliament of Great-Britain to have rights over the people of America, which those very principles clearly subvert.—One writer indeed scruples not to speak out in the following manner:—“ Many will perhaps “ be surprized to see the legislative authority “ of the British Parliament over the Colonies, “ denied *in every instance*. Those the Writer “ informs, that, when he began this piece, he “ would probably have been surprized at such “ an opinion himself. For it was the result, “ not the occasion of his disquisitions. He entered upon them with a view and expectation of being able to trace some *constitutional line*

* Page 100, in the *Note*.

“ *line* between those cases, in which we (the
 “ *Americans*) ought, and those, in which we
 “ ought not, to acknowledge the power of Par-
 “ liament over us. In the prosecution of his
 “ inquiries, he became fully convinced, that
 “ *such a line doth not exist*; and that there can be
 “ *no medium* between *acknowledging* and *denying*
 “ that power in ALL CASES.”*

§ 5. You will probably say, that I have hitherto only explained to you my opinion, that the arguments from *natural right*, in favour of the American pretensions, extend to entire political independence,—without telling you my sense of their intrinsic merit and validity. It is true. I meant to insinuate, that as the Colonies are *said* still to acknowledge their rightful subjection to parliamentary authority, in regard to the regulation of trade and other civil concerns, as usual before the present troubles,—therefore those topics from the Law of Nature would prove *too much*, and consequently *nothing*. But I will answer you more directly. I find no efficacy at all in those *general* reasonings hitherto

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* *Considerations on the nature, and the extent of the legislative authority of the British Parliament.* Printed in 1774, attributed to Dr. FRANKLIN. See Dr. TUCKER's 5th tract, p. 47.

to alledged to prove their having any *natural*, much less a *constitutional*, right to Self-government and Independence on the authority of Parliament, in any one department of civil power: indeed they all center in Doctor PRICE's principles of Government and Civil Liberty, the insufficiency of which I have endeavoured to point out in the piece that accompanies this letter.

There is however, in my opinion, a good deal more appearance of plausibility in some hints and argumentations, occasionally thrown out only as collateral supports, founded upon the *particular situation* and *special circumstances* of the case: as for instance;—the Colonies being grown to a body of powerful States, likely to become very soon a mighty empire, equal and haply superior to Great Britain; able in every respect to subsist alone, to act for and protect themselves, and separated from us by a great Ocean, at the distance of above 3000 miles. Must such an Empire, it may be said, so circumstanced, which from its peculiar and distant situation from Great Britain, has necessarily such different natural connections and interests, and also wants those ties of near neighbourhood with it, that ordinarily connect people together

together into one civil community, under one and the same Legislature,—still continue, to its own evident inconvenience, united to Great Britain as *one* State? Nay! is it not a still greater impropriety and inconvenience,—that such an empire, so circumstanced, should be subject to a Legislature, resident at so great a distance, on this side the Atlantic, with the members of which, in general, the connections must unavoidably be very loose, the intercourse difficult and tedious, the fellow-feeling and mutual sensibility too faint;—can such a Legislature, so circumstanced, superintend adequately and beneficially a Community so remote; can it be a competent judge of their circumstances and abilities, of their sufferings and oppressions; can it quickly enough know, feel, or redress evils, and operate as the public welfare may require? Have not the American communities therefore a well-grounded plea in reason and equity to emancipate themselves from civil union with us, and to govern themselves? especially as it is much to be doubted, whether even any scheme can be devised of uniting them under one Legislature with us, consistent with a due regard to the principles of a free and equal Government*.

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* I sincerely hope this position may be found groundless.

they may say, in our infancy and first youth, under the care of our parents; and during that time subservient to their interests, under their authority; now we are arrived at manhood, and ought to be, from strength and situation, independent agents.

This mode of argumentation, in favour of the propriety and justice of American *independence*, is suggested by Doctor PRICE; but I think I have placed it in a much more forcible light, than it is found in his pamphlet*. I would, in the first place, observe, that the point here argued, not being part of the question between this Kingdom and the Colonies, is out of the line of the present subject. No such claim has yet been made in *direct* terms. When it is, it will be time to consider this particular argument more fully. In the mean time, admitting at present the apparent plausibility of it,—such arguers should be reminded, that in their zeal for the interests of our brethren in America, they entirely overlook the *interest* that *Great Britain* may have in the continuance of the civil compact, which unites it with the Colonies.

Civil

* See page 19, 20, 27, 33, 44.

Civil Society would be a mere rope of sand, if every individual, or whole bodies of men, had a discretionary liberty to dissolve their civil union with the rest of the community, whenever they judged it most for their convenience. Such a liberty would be evidently inconsistent with the ends of Civil Society. The *private* interests indeed of individuals, or of particular bodies of individuals, may justly be considered, as the *motive* of associating with others, but can not be the *measure* of their obligations to the Society: for other people had the same views in associating with them, and thus the *common interest* becomes the end and bond of the union, and the standard of political duty. Protection and security is what the Society gives. Allegiance is what it has a right to, and can not subsist without. There is thus a mutual compact between all the members of a community, and between the body politic and the members; a mutual interest in each other, which is particularly modified by the various relations the different parts of the whole stand in to one another, arising from situation, agreement, or other circumstances. And doubtless *particular* circumstances and situations may enhance prodigiously the degree of that interest in the common union: as for instance, the neighbourhood

bourhood of potent states animated with a spirit of dominion and encroachment; wealth and strength expended by the community on any particular part; a common debt; any common obligation incumbent upon the whole society;— which things I only just hint at in the utmost generality, but are capable of being much more strongly urged. It appears plainly, however, that Civil Society, being formed for mutual benefit, implies a mutual contract and allegiance; from which one part may not discretionally depart, merely for their own private convenience, without consent of the rest; and that there may be very just and weighty reasons for refusing assent in such a case, and forcing the refractory part to due subordination.

Now it is a *fact*, that Great-Britain and the American Colonies are one Civil community. The Charters implied the original compact, and were also a formal renewal of it with peculiar circumstances and modifications, according to which they variously contribute, in their respective established order and relation, to the good, safety, and welfare of the whole Empire. These bonds,—this obligation,—may not be dissolved merely at the pleasure and for the particular convenience of one party. How far this country

try may be particularly interested from such circumstances as above hinted at, or others of like nature, to keep the Colonies within the bonds and terms of the mutual compact, I leave to the judgment of others;—meaning only to suggest, that these considerations ought at least to be *put in the scale*, when people are weighing arguments for the *independance* of the Colonies, founded on their particular circumstances, distinct interests, greater conveniency, flourishing state, ability to do without us, and such like *private* motives.

Circumstances may doubtless be *imagined* and *conceived*, in which the American Colonies, as well as any other part of the Empire, might justly claim emancipation. Accordingly Doctor PRICE enters with this view into the speculative region of possibles*; where it is to no purpose to pursue, till those circumstances become actual, or are declared so by him.

§ 6. But, Sir! although the claims of the Colonies to be subject only to their own Assemblies in matters of legislation and taxation, or in any department of civil sovereignty, stand not on any reasonable ground; although the
supreme

* See page 43—45.

supreme authority of Parliament over the whole British Empire be an incontestible axiom, according to *law* and the *principles* of the *Constitution*;—yet it must be acknowledged that the case of the Colonies, in regard to this Legislative body, is very materially different from that of the inhabitants of Great Britain. The particular relation, in which that Legislature stands to the latter, forms, and was intended to form, a considerable check to the abuse of the supreme trust of government, and of that important branch of it—*Taxation*. This is *one* characteristic of our Constitution, as far as it is a free one. The House of Commons is a temporary body, elected every seven years, or sooner, by the Freeholders of forty shillings a year throughout the kingdom, and by the Burgesses of cities and boroughs scattered all over the kingdom,—the members of which are subject to the same laws and taxes they impose upon others, and are settled in all parts of the country; intimately connected with it and with the rest of the people, by their families, estates, connections, dependencies, &c.; which is the case likewise with the Peers.

Widely different is doubtless the case of those large communities of British subjects, situated

situated in America. They are destitute of those controls on the supreme legislature, which arise from the rights and circumstances just mentioned: for that power is fixed on this side the Atlantic, at 3000 miles distance from them; they share not any wise in that power, neither personally, nor by their votes or interest at elections; neither do they stand in those other circumstances above-mentioned of near connection with the Legislators; they might therefore perhaps have reason to apprehend a disproportionate part of the public burden being cast upon them, for the ease of us and the legislators themselves.—This difference is very feelingly represented by a writer, whose words I shall insert below *; and Doctor PRICE's few
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reflections

* “ Do you not know the infinite difference between a
 “ nation, where *all* have *not* the power of voting for their
 “ representatives, and a nation where *none* have that power?
 “ The former is *your* condition, and therefore, you are a
 “ free people; the former is what we claim: the latter is
 “ the condition of slaves, and that is what you offer us.—
 “ England can not be taxed, but by an Assembly, where
 “ her land is represented by knights, her monied interest
 “ by citizens and burgeses, and therefore she is a free na-
 “ tion. Is then America on a par with England, in point
 “ of freedom, if she can be taxed by an Assembly, to which
 “ her Freeholders send *no* Knights, and her Cities *no* Citi-
 “ zens ?

reflections to the same purpose must therefore be allowed their due weight. *

These

“ zens ?--- It is not true, that we are in *as good* a condition
 “ as those Britons, whom you call unrepresented, and who
 “ are not electors : for even *they* have this great advantage,
 “ that both the representative, and the electors, pay a part
 “ of the tax, as well as those, who have no suffrage ; where-
 “ as, if the House of Commons of England should tax the
 “ Americans, neither the representatives, nor the electors,
 “ would pay any proportion of what they imposed upon
 “ us ; they would not tax, but *untax* themselves. The
 “ condition therefore of an Englishman, who has no suf-
 “ frage, when taxed by the British legislature, and of an
 “ American taxed by the same authority, are totally diffi-
 “ milar. --- A body of 500 men, situated in the midst of
 “ seven millions, and taxing those seven millions, would
 “ surely be more bound to moderation, by fear, if not by
 “ principle, than the same body, assisted and supported by
 “ those seven millions, in taxing two millions, who are at
 “ a distance. To oppress, in one instance, would, at least,
 “ be infamy, if it would not be punishment ; in the other,
 “ they might find it popularity, they might think it patrio-
 “ tism. Mr. P---T said (if I mistake not) that every man
 “ in England could huzza at an election : even that method
 “ of expressing one’s wishes, is some satisfaction, and has
 “ some influence ; the shoutings of the people have had
 “ great effects ;---We can not even *buzza* at an election. ---
 “ How different is the effect of a petition presented by the
 “ hands

* See page 42, 43, 47, 48, 100.

These comparative disadvantages of the American Colonies have arisen accidentally from their emigration; but they have not, till lately, been of age or strength enough to feel them so universally:—from feeling they have proceeded to reasoning; and a concurrence of various circumstances has extended their views to unwarranted lengths. But indeed so far as they only desire to be put upon a more *equal* footing with ourselves, in regard to government and constitutional checks against the abuses of power, especially in regard to taxation, I really think them warranted by the principle of equity, liberty, and the spirit of the British constitution. I earnestly wish them to be put upon as equal a footing as possible with their fellow-subjects in Britain. How far, and

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“ hands of the injured, enforced by their assiduity, and
 “ recommended by their tears, from that of our *paper-re-*
 “ *presentations*? They are subject to be misrepresented in
 “ a thousand ways: they come cold, and you do not feel
 “ them; often too late, and you cannot comply with them;
 “ and what was done by you through inattention and mis-
 “ take, must be maintained *for dignity*; in a word, they
 “ do not strike home, either upon your caution, or your
 “ kindness; your affections or your fears: In this particu-
 “ lar, the very women and children of England have an
 “ influence upon Parliament, of which the Americans are
 “ destitute. How different is your Lot from ours!” *Case*
of Great-Britain and America, London 1769, p. 6—15.

in what degree or mode, this be practicable, consistent with the being united under one supreme authority,—is a subject, I presume, of some difficulty, but not impossible to be adjusted, were there mutual good dispositions on both sides. Several schemes have been proposed: the Parliament made an offer to this purpose, in regard to the great object of taxation, in the spring of last year:—it was this; “*that upon acts of their own legislation for raising a reasonable sum towards the charges, with which government must necessarily be burdened for their protection and defence, acts of Parliament for taxing them ought to be repealed, and that it will not be adviseable to tax them for the future.*”

This was putting them nearly on the footing of Ireland. How has it been received? With insult. If the American Colonies did not like that,—should they not, in their turn, have proposed some other scheme? But it is remarkable, that while many plans have been devised here, in order to do them as much justice as possible, they keep quite aloof, without offering any terms tending to reconcile our mutual union under one supreme authority with their security and freedom. The truth of the matter is,—the present ideas there allow of no such conciliation:

conciliation: *union* with us under *one common supreme authority* is what neither their leaders, nor Doctor PRICE's principles, will admit of; "the Colonies insist," says he, "on being *treated as free communities*:"* but instead of saying so in direct terms, they offer nothing in answer to our condescensions,—but the demand to be restored to the same situation and connections with Great Britain, as at the close of the last war; that is, according to their ideas, to a state of *EXCLUSIVE internal legislation and taxation* by their own Assemblies, which they absolutely insist upon; that is, demanding, that Parliament shall renounce all the claims, that gave occasion to, or increased, the present troubles, while they peremptorily refuse to recede an inch from theirs: it is demanding, in regard to taxation and the public burdens, that we, and the rest of this great empire, should place an implicit confidence in *their discretion*, at the same time they absolutely refuse to place any in *ours*:—it is demanding, not to be put on an *equal footing* with other British subjects, but on a *more independent one*; on such a footing, as is inconsistent with their remaining British subjects. To such demands the Colonies have no legal, constitutional, or natural right:
 reason

* See page 56.

reason and equity also pronounce such claims to be equally inadmissible by this country and the Parliament, as the claim to their absolute submission could be to them. Accordingly the Parliament, at the same time that it held out the olive branch in the resolution of the spring 1775, declared it could not relinquish any part of its sovereign authority over all the dominions of the British empire.

In short, any terms they claim for further security against oppression, or the equitable increase of freedom, consistent with our joint and equal submission to the one supreme legislature, ought to be duly attended to,—and are a suitable ground to treat upon; but such as destroy this bond of civil union, and vindicate to them self-legislation and self-taxation, independent of the authority of Parliament, overshoot the mark much too far.

§ 7. See there, Sir! my sentiments on the principal questions relating to the power of Parliament over the American part of the British empire. Others have been started concerning the *policy* and *propriety* of the exertions of that power in particular instances of taxation, legislation, coercion, or the opposing force

to,

to their resistance. I do not think myself qualified, either by sufficient knowledge of particular facts, or by insight enough into the interior state, trade, production, finances, and resources of the Colonies, perhaps not of this country, to communicate a satisfactory judgment on those topics:—they have been largely discussed, though with a latitude, that allows many plausible things to be alledged on both sides, with much wrangling and speculation to little purpose. One thing however seems to admit not of dispute; to wit, that the American Colonies *ought* to bear a proportionable part of the public burdens of the state. This is evident on general principles: I need not therefore urge, that half the present burthened debt on the state was contracted in a war, begun in their immediate defence, and prosecuted with the utmost zeal and vigour, till its good success issued in delivering them from a most dangerous and obnoxious neighbour, and in enabling them, by all the great advantages consequent thereupon,—to bid defiance to us and the supreme Legislature. Some seem to think, that no profit ought to be expected from the Colonies, but what results from commercial regulations. How great the profits are which the state derives from the Act of Navigation

gation in all its consequences, I pretend not to ascertain; but I should apprehend, with submission to better judgment, that a *proportionable taxation* would be as beneficial a mode of their contributing to the common fund,—and certainly a less arbitrary and oppressive one,—than such a *monopoly of their commerce*: I am aware of the general opinion, that the manufactures of this country, and by their means; its wealth and flourishing state; are principally supported by that monopoly; but I doubt the fact, and am nevertheless of opinion; that the people of this island would be more lastingly, securely, and substantially benefited by the other mode, and allowing the Colonists in general as free a trade, as we ourselves enjoy here.

In regard to the *right* and *propriety* of using coercive measures against the American resistance to government,—I can see no reason to doubt either. This country and the colonies are united in one civil community,—under one supreme legislature,—for the purpose of the general welfare. To this union the Colonies now run counter; by rejecting the supreme authority of that legislature in some of the most essential departments of civil government;

vernment; by refusing to be subject, in those respects, to any common joint Legislature,—to any power but their own provincial Assemblies. Suppose the cities of London, Bristol, or Leeds were to deny the right of Parliament to tax their citizens, and pretend to the right of self-legislation and taxation, independent of its authority, and *insist*, as Doctor PRICE says the Colonies do, on *being treated as free communities*; *—should you not think that it would be the right, as well as the duty of Parliament, in trust for the rest of the community, to compel them to due subordination, and punish them, as circumstances should require, for disobedience? Apply this to the American Colonies. The pretensions they form to self-government and self-taxation by their own Assemblies, independent of Parliamentary authority, are, agreeable to what has been said in the foregoing pages, equally unjustifiable and inadmissible as in any other part of the state. What remains then for the supreme power to do, in conformity with its trust, but to compel them to their duty and the terms of the social compact? The rest of the community has a contracted right to their equal subordination, and Parliament is obliged to enforce it;—particu-
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larly

* See page 56.

larly so as not to leave their contributions to the public burdens of the state to their own discretion, to *give* and *grant* as they please. At the same time every well-disposed person will heartily wish, that no private interests, or ill temper on either side, may prevent the contest being ended and the sword sheathed, as soon as ever the interests of the nation, of justice, and of humanity, will allow, with every security to their property and civil rights consistent with the general welfare.

As to particular measures of Administration in these matters, either prior or subsequent to the resistance the Colonies have made to Government,—I did not take up my pen with a view to say any thing about them, but only to give you, in compliance with your desire, my sentiments on the pretensions of the American Colonies, in respect of Right and Equity, accompanied with a little spice of reasoning, and, I hope, with acceptable moderation and candor.

I proceed now to communicate some brief remarks on several passages in Doctor PRICE's pamphlet, which will illustrate and confirm the preceding sentiments.

§ 8. In order to render the Parliamentary authority of internal legislation and taxation over the Colonies odious, the Doctor misrepresents its nature and the nature of Civil Government very grossly. He represents it,—as a *disturbance of, and an attack upon, the possession of their property*; as such an *absolute command, mere discretionary power, and eternal mastery, over their whole property and legislation, as would leave them nothing to call their own*;—as a power of *subjecting them to any modes of government at pleasure*, for instance, to the *arbitrary power of the crown, or of ceding them to France*;—in short, as a power, *to which it is impossible to fix any bounds or limitations*; a power of *doing with them just what we please*, so that their state is that of *unconditional submission and slavery, of having no law but our will, no right of judging, how far authority in legislation and taxation may extend, but holding all that is valuable at the discretion of another.* *

This is doubtless a dreadful picture; and though some of the expressions are capable of a favourable meaning, yet taking the whole together, and the sense, which the different parts mutually impart to one another, it must

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* See page 19, 26, 34, 35, 39, 40, 43, 44, 45, 47, 53, 60, 61, 62, 89, 101.

be allowed to be a complete description of the most arbitrary Despotism on the one hand, and of the most abject Slavery on the other: But it is happily a very extravagant misrepresentation of the nature of the case; and the relation between Governors and the governed, in any of the Doctor's free states, might be caricatured just in the same terms.

The power, which is claimed by the Legislature over the Colonies can not, as Dr. PRICE observes, be better stated than in the words of an act of Parliament made on purpose to define it*. That act declares, "That this kingdom has power, and of right ought to have power, to make laws and statutes to bind the Colonies and people of America in all cases whatsoever." *Dreadful power indeed!* exclaims the Doctor, *I defy any one to express Slavery in stronger language.*—Yes! I think that vile state has been much stronger expressed by himself in the terms just mentioned. *It is the same,* says he, *with declaring,* "that we have a right to do with them what we please:"—That I deny: it expresses only *civil* power; so that the nature of the subject naturally limits the sense of the general expression, *all cases whatever*; by which
nothing

* See page 34.

nothing more was or could be meant, than that the supreme authority of Parliament over the Colonies is as general, as that of Civil Government, limited by no peculiar or particular exceptions whatever.*

The truth is, that the claim of Parliament is only to *civil* power: now Civil power, even in the highest and most absolute degree, is a trust, limited in its own nature by the end and purposes of the civil union, which is the security and promotion of the general welfare: beyond these limits Governors have no rights, and the People, strictly speaking, owe no subjection. This power is therefore not arbitrary or tyrannical in itself, nor implies any right of doing with subjects and their properties according to mere pleasure; that would be ascribing to government a right to defeat the very end for which it is established, and to betray the trust reposed

* Mr. LOCKE declares,—“ that the *Legislative* is, IN “ ALL CASES, whilst the Government subsists, SUPREME.” On *Government*, book II. § 150.—These are the terms of the Declaratory Act; and they shew with what truth and propriety Doctor PRICE prides himself on teaching the same doctrine with that excellent writer. This *civil omnipotence* of Government is maintained by all the most esteemed writers on the subject. Nay, the denial of it implies a contradiction.

reposed in it. Men carry rights with them in-
 to civil society, which no government may in-
 fringe: "The supreme power," says LOCKE,
 "in whatever hands it be placed, is not, nor
 "can possibly be, absolutely *arbitrary* over the
 "lives and fortunes of the people. For it be-
 "ing but the joint power of every member of
 "the society, delegated to that person or assem-
 "bly, which is legislator; it can be no more than
 "those persons had in a state of nature, before
 "they entered into society, and gave up to the
 "community. For no body can transfer to
 "another more power, than he has in himself;
 "and no body has an absolute arbitrary power
 "over himself, or over any other, to destroy his
 "own life, or take away the life and proper-
 "ty of another. ----- The legislative power,
 "in the utmost bounds of it, is *limited to the*
 "*public good* of the society. It is a power, that
 "hath no other end but preservation, and there-
 "fore can never have right to destroy, enslave,
 "or designedly to impoverish the subjects. ----
 "The legislative can not transfer the power of
 "making laws to any other hands. For it be-
 "ing but a delegative power from the people,
 "they, who have it, can not pass it over to
 "others. Being derived from the people by a
 "positive voluntary grant and institution, it
 "can

“ can be no other, than what that positive grant
 “ conveyed, which being only to make *Laws*,
 “ and not to make *Legislators*, the Legislative
 “ can have no power to transfer their authori-
 “ ty of making laws, and place it in other
 “ hands.” *

I therefore conclude, that Doctor PRICE's
 state of the question between us and the Colo-
 nies, *page 43*, to wit,—“ Whether the British
 “ Parliament has, or has not, of right, a power
 “ to dispose of their property, and to model,
 “ as it pleases, their governments,”—is some-
 what inaccurately and invidiously expressed: it
 should have been more fairly stated, thus;—
 Whether the British Parliament has, or has not,
 the *same* right to tax their property, and to
 model their governments, as it has in respect
 of any other part of the community, for the
 general benefit. But the Doctor objects,—
 “ that the claiming a *right* to alter the consti-
 tutions of the Colonies implies a right of sub-
 jecting them to the arbitrary power of a King,
 or of the Grand Signior.” † This is asserting,
 in direct contradiction to LOCKE and reason,
 that a power delegated to certain persons, to
 make

* On *Government*, book II. § 135, 141.

† See page 45, 48.

make laws, govern a state, and regulate all subordinate jurisdictions and constitutions, — implies a right to transfer that entrusted power to other hands; an assertion, too favourable to *arbitrary* power to be admitted without substantial proof.

The Doctor however urges, — that if the *declaratory* act of Parliament above-mentioned “ means any thing, it means, that the propriety, and the legislations of the Colonies, are subject to the absolute discretion of Great Britain, and ought of right to be so. The nature of the thing admits of no limitation. The Colonies can never be admitted to be judges, how far the authority over them in these cases shall extend. This would be to destroy it entirely. If *any* part of their property is subject to our discretion, the *whole* must be so. If we have a right to interfere at all in their internal legislations, we have a right to interfere as far as we think proper. It is self-evident, that this leaves them nothing they can call their own.” * — How is it possible that Doctor PRICE can reason thus! The most arbitrary despot of Asia could not wish for a logic more favorable to the most abject

* See page 35.

ject slavery. The following brief observations will sufficiently expose its absurdity, without taking any further notice of the impropriety of substituting *Great Britain* and *us* for the *Parliament*. Government is a general discretionary trust of command over the actions, concerns, property, and strength of those, who belong to the community, for the purposes of the civil union. This the act declares to be vested in the Parliament in regard to the Colonies. They are declared to be subject to its discretionary government, just as we are; just as every civil community is subject to some supreme Legislature. The nature of things admits of and necessarily implies palpable limitations, viz.—the *ends* of the *trust*,—the *laws* of *reason* and *nature*. The Colonies are judges, and so are we and every people on the face of the earth, in all cases, when oppressed by a tyrannical exertion of authority; nor does this destroy or impair at all the authoritative exertions of the supreme Power within the limits of its trust; and beyond those limits it has, properly speaking, no existence. The great masters of the subject of Civil Government, the incomparable LOCKE and HODDLEY, especially the latter, have set this matter in the clearest light, against all the subtilities and sophisms, that the wit of man

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could invent; and have evidently shewn, that a right to tax or to exercise any civil power, which is always a fiduciary trust, implies no such consequences as Doctor PRICE here infers. Indeed he himself, in another place, sufficiently enervates those absurd inferences, by remarking,—

“ that Government is an institution for the benefit of the people governed; ----- in the very nature of it, a TRUST; and all its powers a DELEGATION for gaining particular ends. This trust may be misapplied and abused. It may be employed to defeat the very ends, for which it was instituted; and to subvert the very rights, which it ought to protect. ----- “ Nothing therefore can be more absurd than the doctrine, which some have taught with respect to the omnipotence of Parliaments. They possess no power beyond the limits of the trust, for the execution of which they were formed. If they contradict this trust, they betray their constituents, and dissolve themselves.”* Thus justly can Doctor PRICE reason on this subject, when it suits his purpose! † When he sees fit to object to the
supreme

* See page 12, 15.

† And yet even here, in this passage, his zeal against some people has led him palpably to misunderstand the doctrine

supreme authority of Parliament over the Colonies,—then Government is represented as “ an *arbitrary and unlimitable despotism*, to which no “ people can be lawfully subjected:” when the

F 2 uncon-

trine concerning the *omnipotence* of Parliament, and also to fall inadvertently into an absurdity by what he immediately subjoins. By that *omnipotence* the Doctor here means,—a power or right extensive beyond the limits of the trust for which it was delegated:—now in the *first* place, although people may differ, more or less, about the general or constitutional limits of the supreme power of Parliament, yet I presume I may safely defy him to produce an example of any *such* absurd doctrine being taught, as that of the Parliament’s Authority extending beyond the limits of its trust; and *secondly*, Omnipotence, in this assumed sense, can no more be ascribed to legislative authority in the people (which he scruples not to do in the next paragraph) than to the Parliament: for legislative authority in the people has the same general and intrinsic limits, beyond which it can not rightfully act. Indeed when he immediately subjoins; “ theirs is the only *real* omnipotence,”—that is self-evident and admits of no reply; that sort of *physical* omnipotence supersedes effectually all right, government, and authority.

By the *omnipotence* of Parliament, which has been pertinently urged on several occasions, is meant nothing more,—than that it is *absolutely supreme* in command; that there is no *civil* or *legal* power in the state *superior* to it, and that its acts can not be controlled or annulled by any other *authority*. This does not preclude in the least its being limited,

as

uncontrovertible doctrine of the *civil supremacy* or *omnipotence* of Parliament and of the sovereign authority is in his way,—then Government is represented as “ a *trust* and *delegation* for particular

as to the extent of its power, either by laws of Nature, or by rules and principles of the Constitution: it only means, that as the Parliament is the supreme power in the state, there neither is, nor can be, any appeal against its oppressions or transgressions of those limits, but to the *natural* rights of the people to resist oppression, injustice, and unauthorized power. It is the same with every civil Government on the face of the earth: nothing is more evident to those, that have considered the subject, than that there must be in every civil society a supreme commanding authority, vested somewhere, over the *will, persons, concerns, and power* of the whole body, for the purposes of the civil union; and consequently that the supreme Legislative, as such, is absolute, resistible, uncontrolable, and omnipotent, viz. in relation to the community: it is always limited by *natural* law; it may be limited by *constitutional* law;—but it must be, as Mr. LOCKE observes, in all cases, as long as the government subsists, SUPREME over every other person, body, or power in the State: on *Government*, §. 150. This is the doctrine of the *civil supremacy* or *omnipotence* of Government taught by that great man, by GROTIUS, PUFFENDORF, HUTCHESON, HOADLEY, &c. Compare Sir EDWARD COKE's *Institutes* iv. 36, and BLACKSTONE's *Commentaries*, book I. chap. ii. §. 3. How strangely has this plain evident doctrine been lately misconceived, misrepresented, and abused by an intemperate spirit of party!

“ ticular ends, beyond the limits of which it has
 “ no power.” In both cases, however, these
 contradictory representations are equally appo-
 site,—that is, nothing to the purpose.

§ 9. Whether any persons have argued for
 the claims of Parliament from the necessary
Unity of the British empire, or from the *Superi-
 ority* or *Pre-
 em-
 inence* of this State, in the manner
 stated by Doctor PRICE *, I will not stay to ex-
 amine; though I can not think that any body
 has. But certainly there is no force in any of
 the arguments, which he represents as drawn
 from those topics; so that they afford him an
 easy triumph, and an opportunity of saying fe-
 veral general things little to the purpose. In-
 deed the Doctor but too often widely misrep-
 resents or misconceives the notions and reasonings
 of those, whom he has chosen to oppose.

That in order to preserve the *Unity* of the
 British empire, there must be lodged *somewhere*
 a power of supreme legislation †,—is an incon-
 testible truth: but where that is lodged, how
 it is constituted, and in what manner limited,
 nobody, that knows what he is about, will at-
 tempt to shew from any general notions of
Unity,

* See page 35—37.

† See page 35.

Unity, but from the history of this people and of the constitution of their Government.

As to arguing from the *Superiority* of the *British State*, as Doctor PRICE terms it *,—it would be talking nonsense; because the Colonies are a *part* of the *British State*. If, by this latter term, that part called Great Britain be meant; there is no *civil* superiority, that I know of, claimed by this country over the Colonies; and, as to any other, it is out of the question.

The circumstance of our being the *parent state*, no more than that of our having *protected* the Colonies, can have been alledged to shew the *constitutional power* of Parliament;—but may possibly, and not improperly, have been contrasted with the unfriendly and refractory behaviour of those our fellow-subjects on the other side the Atlantic.

§ 10. The argument for the sovereign supremacy of Parliament urged by some, as Doctor PRICE represents it,—“from the land, on which the Colonists settled, being ours,” †—is of more force, when fairly and properly stated, than he apprehends. The case is briefly

* See page 36.

† See page 39.

ly this. That territory, as far as it has been taken possession of, inhabited, and settled in, by British subjects, under the authority, the sanction, the protection, and the laws of the British state, is become part of the territory of that state;—and, in this sense, if you please, is *our* land, just as we say, that London is *our* capital.—It is thus, that the land of the American Provinces first came, and is now, by long prescription, under the territorial sovereignty of Parliament, in trust for the State;—just as Wales, or any other county in England. This plain and natural state of the case obviates entirely the few captious cavils, with which the Doctor embarrasses the subject. See above, *page* 13.

§ II. It is a gross misrepresentation of matters, to call the present contest with the Colonies,—“ a contest for the *extension of dominion and power over OTHERS, over DIFFERENT societies;—for power only, for its own sake, abstracted from all the advantages connected with it;—for reducing our BRETHREN to servitude:—*to charge it positively, *not* to any injury they have done us, but to a *lust and love of mere power, to pride, blind resentment, love of revenge, a despotic spirit, and such cursed ambition as led a CÆSAR and an ALEXANDER, and many other mad conquerors, to*

attack

attack peaceful communities and to lay waste the earth."* I forbear to point out the contradiction the author falls into in this representation; as well as in the general tenor of his pamphlet; by terming the Colonies, sometimes a *different community* and *people* from ourselves, under a *distinct government* of *their own*, and then again *our fellow-subjects* and *brethren*, just as best suits his purpose: nor shall I stop at the unwarrantable partiality, unfairness, and absurdity of the above passionate language, which contains nothing but flame without light, and must be generally disapproved. I shall content myself; with opposing to his misrepresentation a just account of the matter; which is this:—The Colonies deny, according to Doctor PRICE himself, "the plenitude of the Parliament's power over them, and insist on being treated as free communities;" † this it is that justly draws

* See page 51—54, 59, 98, 99, 89.

† See page 56. I have made free, in this passage, to substitute, *the Parliament's Power*, instead of the author's phrase, *our power*;—because it is not any power of *this Country* over the Colonies, but that of *Parliament*, that is in contest: *we* are only interested as *fellow-subjects*. The Doctor's phraseology in this respect is exceedingly culpable throughout his whole pamphlet, as it suggests a very false and improper state of the case.

draws down our resentment upon them: the object of the contest is therefore, to maintain, not over *others*, but over our *own people*, our *own fellow-citizens*, the supreme authority of the Legislature; not to reduce our brethren to servitude, but to maintain their joint union with us under the sovereign supremacy of Parliament; and that, not for the sake of *mere power*, *abstracted from all advantages connected with it* (which is a most wild charge), but for the sake of *public interest connected with it and dependent on it*.*

This is the contest of the *Parliament* and of the *Nation*:—what improper passions or motives may actuate some *individuals*, perhaps Doctor PRICE may know better than we country gentlemen; I am not concerned to investigate, much less to excuse or defend them.

The Doctor would ask nothing but the *gratitude* and the *commerce* of the Colonies:† the latter is a claim not a little arbitrary on a *free* people, and what, upon his own principles, they would refuse, as a demand of *right*, and could not agree to give up for the next generation; hence also Lord SHELBURNE'S plan is

G inconsistent

* See page 53, 51.

† See page 92.

inconsistent with the Doctor's theory. As to *gratitude*, we know very little of its sense or operations among bodies politic.

He asks——“What have they done? Have they crossed the ocean and invaded us? Have they attempted to take from us the fruits of our labor, and to overturn that form of government, which we hold so sacred? This can not be pretended. On the contrary. This is what we have done to them. We have transported ourselves to their peaceful retreats, and employed our fleets and armies, to stop up their ports, to destroy their commerce, to seize their effects, and to burn their towns. Would we but let them alone, and suffer them to enjoy in security their property and governments, instead of disturbing us, they would thank and bless us. And yet it is we, who imagine ourselves ill used.”*

This requires no other answer, than to suppose for a moment, that the County of Durham denied the plenitude of Parliamentary power over them, and insisted upon being treated as a *free community* (which the Doctor allows

* See page 55.

allows to be the avowed pretension of the Colonies*), and that the Parliament endeavoured to reduce them by force to the same subordination as the rest of the state;—would not the talking in such a strain as the above be looked upon as strangely wild and absurd? It is, at the best, a mere begging the question, and *supposing* the Colonies to be distinct communities from us, which have governments of their own, and done us no wrong or injury at all; which things ought to have been *proved*, agreeable to the professed intent of the Pamphlet.

§ 12. In page 41 and 100, there is a very fallacious state of the reasoning made use of by the advocates of Parliamentary supremacy. Doctor PRICE says,—“that we plead the defective state of the representation of this kingdom to prove our right to tax America; arguing, that we submit to a Parliament that does not represent us, therefore they ought; that we want liberty, and therefore they ought.” This he calls a *strange* argument; and so indeed it would be. But what the Doctor alludes to, is not an *argument* to prove the Parliament’s right to tax the Colonies,—but a particular *answer* to an *objection*

G 2 made

* See page 56.

made by them against that right. The case is this. The leaders of our fellow-subjects in America object,—“that they have no share in making the laws, no voice in Parliament, neither in person, nor by representatives of their own choosing, and are therefore not taxed by themselves as we are:”—We answer; you are in the same predicament, in this respect, as most other individuals and bodies of men in Great Britain are; you have therefore no more right to dispute the authority of Parliament, on the mere pretext of not being there by a personal or delegated presence, than they have. We mean not hereby to justify, much less to *prove*, the legal and constitutional authority of Parliament over the Colonies; that rests on other grounds; nor do we hereby assert, that they are on an equality with us, in regard to checks upon the abuse of that authority; we acknowledge, at least I and many more do, that there is a considerable difference in this respect to their disadvantage; see the preceding 6th §. We only mean to assert from plain fact, and the history of our Constitution, that the legal authority of Parliament over persons and their concerns, for the purposes of Government, depends not on their participating in that authority, either in person, or by representatives of their own choice; and

and that consequently our fellow-subjects in America argue badly, when they object,—“ we are not represented in Parliament by delegates of our own choosing; we share not in the power of taxation or legislation exercised by Parliament; THEREFORE we are not legally and constitutionally subject to Parliamentary taxation and legislation.”

§ 13. Doctor PRICE says he hears it continually urged—“ Are they not our subjects ?” —I can not remember it having occurred in my hearing; but it is certainly a false plea; and his reply is a just one, viz. that they are not *our subjects*, but *our fellow-subjects*: and it is precisely from this quality, that we conclude they are jointly subject with us to the one supreme and sovereign legislature of Parliament, unless they can plead any legal exemption by charter, grant, or compact. How amazingly does this contradict his representation of the Colonies, in other places, as *another people* under a *distinct government of their own!*

§ 14. “ The fundamental principle,” says Doctor PRICE, “ of our Government is—the
“ right

See page 99.

"right of a people to give and grant their own money." *

I can not find any such principle. The principles of our Constitution, in regard to taxation, are, 1st, That no tax can be laid on British subjects without the consent and authority of Parliament; but that every tax laid on by that authority is legal and valid: 2dly, That the House of Commons has the accustomed right of apportioning and fixing the sums to be levied on the community for the public service, and of thus giving and granting to the Crown the necessary supplies with the joint assent and authority of the other two constituent parts of the Legislature, the King and the House of Lords.—If the House of Commons be considered as the Representative of the people at large, then the Doctor's principle may be admitted with some little qualification thus; "the right of the people to give and grant their own money, viz. by certain legal and constitutional representatives, eligible according to *custom* or *statute*." The people themselves *consent* just as much and as little to those *gifts* and *grants* of money, as they do to the making of laws, or any other operation of Parliament; and therefore

* See page 49.

fore "the right of the people to *make laws for themselves*" is just as much, in the same sense, and in the same degree, a fundamental principle of our government as "their right to *give and grant their own money*." The consent of the people has no more constitutional connection with taxation, than with every other governmental power of Parliament: why Doctor PRICE restrains it more peculiarly to that particular branch is best known to himself.—There are doubtless many *fundamental principles* of our government, that most prevalently militate against the principles and arguments of his Pamphlet.

But the Doctor says;—"this right of a people to give and grant their own money, is however the *principle* on which a *free government*, as such, is founded:"*—this is not true according to his theory; for the *principle* of a *free government*, as such, agreeable to that theory, is "the right of a people to be *governed* in every respect by their own will:" see Sect. 3d of the subsequent *Observations*. Neither was it for any *such self-government* or *self-taxation* that resistance was made to King CHARLES the first †; —it was for levying money *without consent of Parliament*.

* See page 49.

† Ibid.

Parliament.—"Can we with any decency pretend, that when we give the King *their* money (viz. of the Colonies) we give him *our own*?"*. Must it be repeated again, that we give not, nor claim a right to give or grant, their money to the Crown? It is the supreme Legislature of the British empire, that claims the right of imposing taxes on them; and when the Commons give the King the money of our fellow-subjects in America, they just *as much* give him *their own*, as when they give him the money of the people of *Yorkshire*: in fact, they give *their own* in neither case, but, as was said before, they apportion the necessary supplies to be raised on the community, or if you please so to express it,——they *give* the money of *the Community*.

I just desire transitorily to remark,——that among the causes of the noble resistance made by the *Dutch* to the *Spanish* monarchy, the Doctor has by mistake mentioned "the levying money without their consent:"† for in the sense here intended, the *Dutch* people did not at that time claim, nor do at present exercise, any such right as Doctor PRICE contends for, of not being taxed but by their own consent, either

* See page 50.

† See page 90.

either in person, or by representatives of their own choosing. Taxation *without consent* of the *Nobles and States of the Provinces*,—was the grievance here alluded to: for the rest, the cases of the *Dutch* then, and the American Colonies at present, are totally dissimilar.

§ 15. I flatter myself Doctor PRICE will do me the justice to rank me among those *some*, who he doubts not “are influenced by no other principle, than a regard to what they think the just authority of Parliament over the Colonies”, and to the unity and indivisibility of the British empire. I wish,” says he, “such could be engaged to enter thoroughly into the enquiry, which has been the subject of the first part of this pamphlet, and to consider, particularly, how different a thing maintaining the authority of government *within* a state is from maintaining the authority of one people over another, already happy in the enjoyment of a government of their own.” †
—I have examined thoroughly the first part of the Doctor’s pamphlet, witness the *Observations*

H hereto

* I have here again substituted the *Parliament* instead of *this country*, for the reason alledged above, page 48, in the *Note*.

† See page 56.

hereto annexed; the result will there be seen: for the rest, what follows is not at all applicable here; for we deem not the Colonies by any means *another people*, under distinct supreme free governments of their own, but a people *within the state*, just as the people of Yorkshire are: but it is one of Doctor PRICE's favorite and capital misrepresentations, to talk of them throughout his whole piece in the former strain, which is nothing but a most exceptionable taking for granted the very thing in dispute;—an easy method indeed, that spares the trouble of arguing! As well might you talk of *Bristol* or *York* being a different people,—and argue that they have governments of their own, which the Parliament ought not to interfere in: they are indeed different as to place or other particular circumstances, but they are the *same people* or *civil community*, and though endowed with distinct subordinate Legislatures for particular purposes, yet are united in the same bonds under one and the same supreme legislative authority. I refer you, for confirmation of this, to the preceding part of this letter. Most of the Doctor's reasonings in favor of the American Colonies, throughout his pamphlet, derive a considerable degree of their plausibility from that assumed hypothesis just now censured,—and
also

also from stating the contest to be betwixt *this kingdom* and those *foreign* states, the Colonies, as if *we* here in this island claimed jurisdiction, or desired to extend dominion over *them*: we only claim to be their *fellow-subjects*. See note, § 11. *

The Doctor wishes us further to consider,—
 “ that the desire of maintaining authority is
 “ only warrantable, as far as it is the means
 “ of promoting some end and doing some
 “ good;” (this every body is agreed in) “ and
 “ that, before we resolve to spread famine and
 “ fire through a country, in order to make it
 “ acknowledge our authority, we ought to be
 “ assured, that great advantages will arise not
 “ only to ourselves, but to the country we wish
 “ to conquer.” †. Always misrepresentation!
We do not want to make the Colonies acknow-
 ledge *our* authority, but that of the *supreme Le-*
gislation, and *our joint civil union* and *submission*
 under that authority. The great advantages
 proposed are the continuance and security of
 those benefits we have already experienced, or
 may further derive from that mutual union and
 H 2 connection.

* See PRICE'S *Observations*, &c. page 19, 20, 27, 28, 32, 35, 36, 51, 53, 56, &c. &c. throughout.

† See page 56, 57.

connection. But the doctrine of *assurance* is as little necessary to action in worldly concerns as in religion: if nations and communities were never to go to war or vindicate their rights, but when *assured* of the great advantages to be derived from so doing,—ambition and injustice would speedily divest them of their most valuable rights and property. But this is too evident to require any further illustration.

Having now, Sir! as I presume, sufficiently explained to you my sentiments on the subject you desired, and also the principles on which they rest, and by which the main force of Doctor PRICE's reasonings may be easily obviated, I therefore make an end of this epistle, with the assurance of my being

Yours, &c.

H. GOODRICKE.

YORK,

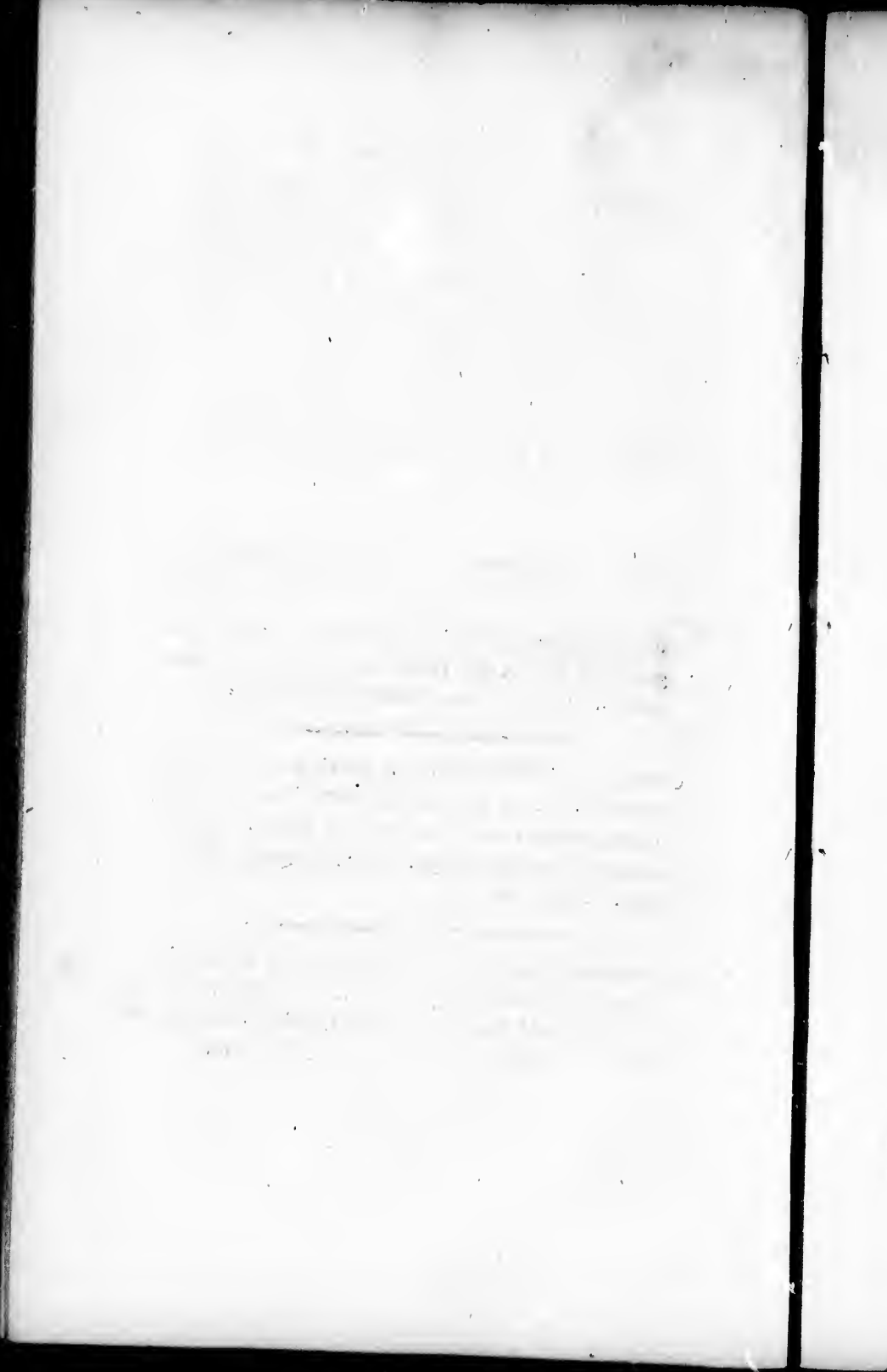
May 1, 1776.

OBSERVATIONS
ON
Dr. PRICE'S
THEORY and PRINCIPLES
OF
CIVIL LIBERTY and GOVERNMENT.

Statuo esse optime constitutam rempublicam, quæ ex tribus generibus illis, regali, optimo, & populari, fit modice confusa. CICERO *Fragm. de Republica.* Lib. ii.

Comme dans les Democracies, le peuple paroît a peu près faire ce qu'il veut, on a mis la liberté dans ces sortes de gouvernemens; et on a confondu le pouvoir du peuple avec la liberté du peuple. MONTESQUIEU *Esprit des Loix.* Liv. x. ch. 2.

But the wisest, best, and far the greatest part of mankind, rejecting the simple species of *Monarchy, Aristocracy, and Democracy,* did form governments mixed or composed of the three. SIDNEY *on Government.* Ch. i. § 10.



OBSERVATIONS

ON

Dr. PRICE'S

THEORY and PRINCIPLES, &c.

SECTION I.

INTRODUCTION.

THE sovereign supremacy, which the British Parliament claims over the American Colonies, has been asserted, as well as contradicted, with much display of argument. Without deciding any thing at present on that point,—I am clearly of opinion, that in the course of the discussion such sentiments have been repeatedly advanced and urged in favour of the American pretensions, as are not only repugnant to truth, but also inconsistent with the foundations of civil Government and the principles of our excellent Constitution. This I apprehend to be the case in a considerable degree with Doctor PRICE'S late pamphlet, entitled, *Observations on the nature of civil Liberty, the principles of Government, and the justice*

*justice and policy of the war with America.**

Hence has arisen the following opposition to the principles in that famous piece:—not however so much from its being considered, as more particularly pernicious in sentiment, or more cogent in argument, than other preceding productions of the press; but because it wears a more general systematical appearance; and because the well-founded literary reputation of the Author, and the singular importance given it by particular circumstances, lend it an authority capable of doing much more extensive mischief than any thing hitherto published.

I have formerly read, with great utility and satisfaction, Doctor PRICE's *Review of the questions and difficulties in Morals*, and his *four Dissertations*. Every body must allow, that he has discussed the subjects therein undertaken with a perspicuity, accuracy, and judgment deservedly admired, and I esteem them among the most valuable treatises on those matters. But there appears to me such a striking difference in the publication now before me, that if his name had not been prefixed, I could not have believed it to be the production of the same respectable

* See the preceding *Letter to a Friend*, page 2, 3.

able writer. When I attribute mischief or licentiousness to the principles of this gentleman or any body else, I mean not to insinuate that such evils were intentionally meant: I have nothing to do with intentions;—but only with errors and their tendencies. There are certainly many very respectable and worthy persons among the advocates for the American Colonies against Government; but the knowledge, eminence, and worth they are possessed of are no bar to their labouring under errors, mistakes, and prejudices,—nor ought to be any to a free Briton's exposing such failings, in matters of importance, with due candor and decency: indeed the mistakes of such persons are so much the more dangerous and likely to spread their evil influence.

I scruple not to own, that attempts to revive some exploded slavish principles, contrary to the established free Constitution of this country, have shewed themselves in two or three publications during the American controversy. It may be said, why not oppose these? I answer; they have been very few and insignificant, faint, unsupported, generally discouraged, partly crushed by authority of Government, and are quite below notice: indeed I am apt to

I

think

think they may be very justly looked upon as raised up merely by force of the extreme licentious principles, that have been of late so earnestly abetted and propagated; for it is particularly true in politics,—that one extreme begets another:—licentious principles naturally and always beget the extreme of despotism,—both equally inimical to freedom; and I am persuaded that if our notions of Civil Society, Liberty, and Government were regulated according to the dictates of Reason and the principles of our established Constitution,—slavish and arbitrary maxims would always be viewed here with deserved disapprobation. By counteracting therefore such false and unwarrantable principles, as loosen the salutary bonds of just civil Government, and endeavouring to substitute such as agree with the standard just now mentioned,—I shall promote, in more than one respect, the sacred cause of general LIBERTY.

Unconnected with any party of men or any political measures,—I am of opinion, that civil Government can be considered in no other light than as a TRUST, limited in its nature by the purposes of the civil union, committed to a certain person or persons by the society for the common benefit; in so much that Govern-
ors

ers possess no power beyond the above limits, and that the only just foundation of all civil authority is the *consent* of the Community.

It is upon this ground that I propose to give Doctor PRICE's principles of Liberty and Civil Government a strict and candid examination. I desire it may be remarked, that it is not their *application* to the point in dispute between this country and the Colonies, that I mean to controvert (though the superstructure must fall of course, if the principles that support it, fail); nor would I concern myself at all with that application any further than it may serve to shew the extent, in which the author's principles are to be taken, and the length, to which they are intended to carry people to: it is therefore *the principles* themselves, as laid down in the pamphlet, that I propose here to consider. The result will appear sufficiently in the course of the examination; which I wish my readers to pursue along with me, divested of every prepossession, and admitting freely the light and influence of truth alone.

S E C T. II.

Doctor PRICE's main Position.

DOCTOR PRICE's fundamental proposition in regard to Civil Government is this:

“No one person, or number of persons, can have any just legislative authority over any other person or persons, who share not equally with the former in the power of legislation, either *individually*, or by an *equal and adequate representation*; that is, by Representatives chosen for short terms by the majority of the people, subject to their instructions, and accountable to them.”

Or in other words,—“There is no *just* and *lawful* Government, but such as is vested, either in all the members of the community, acting by the majority of voices,—or in an Assembly of Representatives, chosen for short terms by such majority, subject to its instructions, and accountable to it.”*

The

* This is the Proposition, which DOCTOR PRICE applies to the question between the Parliament and the American Colonies;

DR. PRICE'S THEORY. 69

The Doctor has not, any where in his pamphlet, so collected the several particulars of this capital proposition in one point of view, or stated it with the precision and clearness, as I have judged necessary to do here,—in order that we may proceed with clear and determinate ideas. I have retained, as near as possible, the author's own words, but have been particularly solicitous to represent his *meaning*, as contained in the pamphlet, with the most scrupulous exactness possible. See page 19, 20, 25—28, 90, 100 in the *note*; also *section* III. and IX. of these *Observations*. I said *scrupulous exactness*,—because, though I could have wished, in order to a completer discussion, to determine more precisely one or two particulars of the position above stated,—and it would not have been difficult to have done so by inference,—yet I have chosen to be particularly cautious, not to give a more determinate meaning to any part of it, than his own explanations clearly warrant. This is especially the case

Colonies; and it decides clearly against any civil authority of the former over the latter. In the application of it, he alleges several circumstances, which, in his opinion, much aggravate the hardship of the particular case of the Colonies; but the question of *Right* is decided on the above important and extensive position.

case with the expression *accountable*, in his requisition,—“ that the Representatives are to be “ *accountable* to the people.” There is an ambiguity of importance in this word, as employed in this subject and connection. Does the Doctor mean nothing more by it, than that those Representatives, like all other civil Administrations whatever, when they become tyrannical and oppressive, when they exceed the limits of all civil power, may lawfully be resisted, controlled, and even destroyed by the community, which has a *natural* and *unalienable* right to use all means expedient for its own safety and security?—This is, as one man or nation calls another *to account*.—Or does he mean, that those Representatives, to whom the rights of *supreme* Legislation and Government are supposed to be delegated, should be accountable for their measures to the people, as to a superior body in the State,—as to a legal civil superior,—just as our Judges, for instance, are liable to be impeached, and called to account, before the high court of Parliament?—There is a material difference between those two explanations, and I am persuaded, the latter only can correspond with the Doctor’s system: either of them would have afforded me advantages against it; for the *latter* would both imply a contradiction,

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contradiction, and load his scheme with the same inconveniences, that forced him to put Government out of the hands of the people into those of delegates; and the *former* would not leave the people self-government enough to answer the boasted advantages of his theory.

I have not availed myself of either of these explanations, but left, as above, the expression in the vague state I found it. This is only one of many instances of considerable incorrectness and inaccuracy, both in sentiment and expression, in the publication now before me*, which can only be attributed to the Theory the Doctor has undertaken, and to his having assumed throughout, much to his disadvantage, the manner of a popular declamatory writer rather than of an accurate and philosophical investigator.—I proceed to pursue the proposition further.

Now the doctrine it exhibits appears to me repugnant to the dictates of reason and the natural liberty of mankind; which seem to allow,—that as all legal civil Government must ultimately rest on the consent of the Community, and is in the nature of a Trust and Delegation
for

* See *Section IX.* of these *Observations.*

for certain purposes, that can be carried on by the authority of one or more persons, therefore any number or community of men may institute or consent to whatever form of Government they judge most proper and beneficial, and entrust that authority, where they think best. This same consequence seems also deducible from Doctor PRICE's own sentiment,—“ that all different forms of Government are no more than so many different modes, in which the people chuse to direct their affairs, and to secure the quiet enjoyment of their rights.” * Doubtless one form may be much better calculated than another, for the real interest of the society; but as far as any rests on the consent of the Community,—it is not an *unjust* and *oppressive* authority, but a *rightful* and *legal* Government. So all the most esteemed writers on the nature of Civil Government have argued. But it seems Doctor PRICE is of a different opinion, and this probably is the *new matter*, which he says may, *perhaps*, be found in his observations on Civil Liberty †. Whether however it be *new* or *old*, those Observations have had that weight given to them, and are become of that consequence, as to deserve particular notice. Let us attend to his further reasoning.

He

* See page 6. Compare page 8 and 12.

† See *Preface* to the 1st Edition.

DR. PRICE'S THEORY. 73

He says the foregoing doctrine is an inference from, that is, is agreeable to, the *nature and principles of Civil Liberty as explained by him**: and this is undoubtedly true; because he had laid down, that

“CIVIL LIBERTY is the power of a Community to govern itself by its own will, as expressed either by the majority of the Members, or by Delegates, appointed by, subject to the instructions of, and accountable to such majority;” and also represents *this* Liberty, “as a fundamental principle,—an essential and unalienable right,—which no man or community can give up.” †

Here we are got to the corner-stone of the Doctor's system, to wit,—“That CIVIL LIBERTY, *N. B.* as defined and explained by him, is a sacred and invaluable right, which no man or community can lawfully cede to others, or be deprived of by any human power.”

As this is a sentiment, that differs considerably from the most eminent writers on the nature of Government;—as it is the basis of the Doctor's pamphlet,—and also the natural source

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of

* See page 19.

† See the next *section*.

of many serious and important inferences not specified by him;—one would have expected the most cogent proofs to support it, at least, that the Doctor would have set himself particularly to prove that point: but instead of that, he every where takes it for granted, and supposes the truth of this principle, without framing one argument in its favour. This is what he himself expressly acknowledges, saying,—

“ The intention of these observations is, -----
 “ taking for granted the reasonableness of Civil
 “ Liberty, to shew wherein it consists, and
 “ what distinguishes it from its contrary.”*

Very unaccountable indeed! The principles, therefore, which are the foundation of the Doctor’s bold decisions against the authority of Parliament,—those much-boasted principles are not *proved*, but *taken for granted*. Surely it is no *self-evident* truth, that Civil Liberty, in the sense Doctor PRICE uses those terms, is *unalienable*, or in other words,—that the government of a state *may* NOT be committed to any other persons, than to the whole collective body of the people, or to such Representatives as above specified! it certainly seems more presumptive that it *may*. What *can* not be proved, if one may lay down principles and take them

* See page 16.

them for granted? Any thing can be warranted by such liberties. Is there not then a considerable chasm in the Doctor's performance, considered as intended and recommended to convince us?—no less than the proof of his leading and fundamental principles. Till that is produced, it must be *insufficient* in point of *argument* to the considerate. When it is, I make no doubt but the insufficiency will be manifest, or at least easily pointed out.

There are however many things asserted or insinuated in Doctor PRICE's observations, that have the appearance of argument, are artfully calculated to recommend and instill his principles, and may impose on the unwary or undiscerning; especially when the name and cause of *Liberty* are so much pretended. The exhibition and detection of these fallacious supports will be the most useful way of pursuing the subject, and afford me pertinent opportunities of weighing the merits of the Doctor's theory;—after giving in the next *section* a summary view of his principles.

S E C T. III.

Summary View of the Doctor's Principles.

SELF-GOVERNMENT OF SELF-DIRECTION is the very essence of LIBERTY, *page 3.*

This marks the limit, and lays the line betwixt *Liberty* and *Slavery*. As far as, in any instance, the operation of any cause comes in to restrain the power of Self-government, so far SLAVERY is introduced, *page 5.*

The LIBERTY of a *State*, or CIVIL LIBERTY, consists in its being governed by itself; that is, by the will of the majority of the Community, *page 3, 5.*—SLAVERY consists in its being governed by any other will, *page 4.*

This *Civil Liberty*, however, being impracticable in large states, he says, we must be content with near approaches to it: he therefore relaxes and enlarges his definition of it, so as to admit of government by *Substitutes* or *Representatives*, *page 7, 8, 9;*—but then he further limits and settles this substitution in such a manner,

manner, that at last emerges the following definition of the CIVIL LIBERTY of a State:

It consists in its being governed, either by the will of the majority of the Community, or by the will of an assembly of Representatives, appointed by, subject to the instructions of, and accountable to, that majority.—Every state not so governed is in SLAVERY, page 10, 11.

This being, according to the Doctor's ideas, true LIBERTY, the *prime blessing* of man in his *civil* capacity, a blessing truly sacred and invaluable, page 5, 18,—he pronounces, that the people can not have too much of it, page 12, and that it cannot be ceded, given up, or taken away by any conquest, compact, or favor, page 5, 18, 24, 27.—All authority, inconsistent with that Civil Liberty, is unjust and oppressive, page 27.—All Civil authority therefore of persons or communities over one another is *unlawful* and *unjust*, if not incorporated together in one legislative body, either *individually*, or by a *just and adequate representation* as above specified; and in proportion as the people have *more or less* share in the government, or of a controuling power over those, by whom it is administered,—in that proportion is the constitution

tution of government *free, good, just, and lawful*, or the reverse, page 19, 25, 27, 28, 90, 100, 11.

These are Doctor PRICE's Principles concerning *Civil Liberty* and *Government*, which I beg the reader to keep steady in his mind as we proceed. He says they are *important* as well as *just*. * The former can not be denied; whether the latter be true, the following pages will in some measure ascertain.

S E C T. IV.

Prejudice from Names obviated.

ONE of the most obvious methods Doctor PRICE makes use of to recommend his principles, is by dignifying them with the name of *freedom, liberty*, and particularly *Civil Liberty*; and by stigmatizing every restraint of this Liberty, with the odious names of *Slavery* and *Servitude*: and he accordingly appropriates and applies these terms throughout his whole pamphlet in such a manner, as to influence people

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* See page 1.

DR. PRICE'S THEORY. 79

to take for granted what ought to have been proved. The only support of his capital proposition above-mentioned is,—that “it is an *immediate and necessary inference* from the nature and principles of CIVIL LIBERTY as explained by him.” *

Names are but too apt to mislead men's judgments of *things*; and on no subject is more advantage taken of this circumstance than on that now before us. The terms *freedom, liberty, civil liberty, slavery, and servitude*, have generally been appropriated to signify, on the one hand, such powers as are—important, sacred, and invaluable blessings,—useful and salutary privileges,—barriers against oppression and tyranny,—things worthy the attention, care, and zeal of the wise and good, nay of every man in every capacity; and, on the other hand, such restraints upon our natural powers, as are odious, disagreeable, tyrannical, oppressive, deserving the detestation, abhorrence, and resistance of all men.

These terms raise therefore instantaneous feelings of approbation or indignation, in a degree proportionable to the circumstances of
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* See page 19.

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the case; more especially in free countries like this, where power is a good deal divided, and shared; more or less, by a considerable part of the people, and not seldom contested for. This gives them a peculiar energy and magic force as it were, which is too often abused by error and prejudice, or to serve the views of faction and ambition. Thus it happens, that by bestowing them liberally on any things we choose to support or vilify, and speaking of them with the spirit those appellations seem to deserve, the generality of incautious people are thereby alone biaſſed to approve or disapprove; and often fired with zeal without knowledge, merely by a dextrous application of those names.

But there is no more argument in this than in calling any body a rogue, or an honest fellow: bad or good appellations make things neither better nor worse than they really are in themselves: and whoever chooses to act right, will judge of things and their merit by their nature and qualities, and not by the names that are given them. Notwithstanding therefore all the fine names Doctor PRICE pleases to bestow on his theory,—the question still remains concerning its real and intrinsic merit;

merit; whether, for instance, it be *agreeable to right reason*? Whether what he terms *Liberty* and *civil Liberty* be, or be not, such an *invaluable* and *unalienable* blessing as he represents it? —Which will come under consideration in the next *section*. In the mean time, I can not help remarking, that the Doctor, by defining *Slavery*,—“any restraint upon self-government,”—will be found to introduce *slavery* almost every where, and to make it absolutely necessary to the happiness of mankind.

There is a *woe* denounced in Scripture against such as *call evil good, and good evil; that put darkness for light, and light for darkness; that put bitter for sweet, and sweet for bitter**, that should inspire us with a sense of the mischievous effects of it, as well as with caution to keep clear of it: nor will Doctor PRICE himself disallow that the putting *Liberty for Slavery* and *Slavery for Liberty*, especially in warm and pathetic addresses to the public, comes within the line of that misconduct against which the woe is denounced, and is of a very pernicious tendency. How far the Doctor's pamphlet throughout is censurable on this account, I leave to the judgment of others;—but of this I am certain,—

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that,

* *Isaiab* v. 20.

that, according to the common sense and language of mankind, both in this and other countries, the odious term of SLAVERY never was or is used in opposition merely to *self-government*, or to mean ANY *cause that comes in to restrain Self-government*, but always implies some other accessory ideas: now DOCTOR PRICE does define and talk of *Slavery* in that strain, * which tends evidently to confound *right* and *wrong*, and *good* and *evil*; as will more clearly appear in the following pages.

S E C T. V.

*Doctor PRICE's Principles of Liberty in regard to
Individuals considered.*

DOCTOR PRICE also endeavours to recommend his Principles by asserting the value of Self-government or Self-direction both in Individuals, and in Communities (viz. by decisions of the majority),—in the highest terms possible. He contends,—“ that there is not a word in the whole compass of language, that
expresses

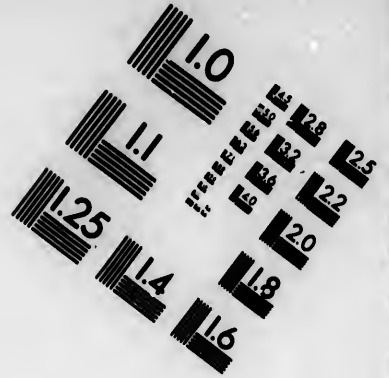
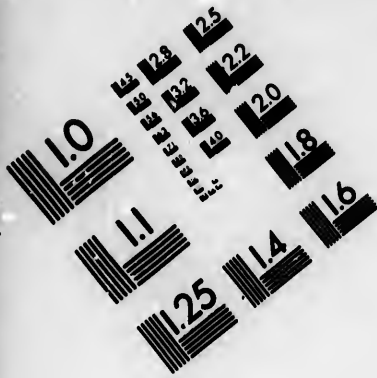
* See page 5.

expresses so much of what is *important* and *excellent* as the word LIBERTY, *N. B.* in this sense of *Self-direction, free from ANY CAUSE to restrain it*;—that it is, in every view of it, a blessing *truly sacred and invaluable*;—that nothing can be of *so much consequence* to us as this *Liberty or Self-dominion*,—and that it is the foundation of *all honour* and the *chief privilege and glory* of our natures."*

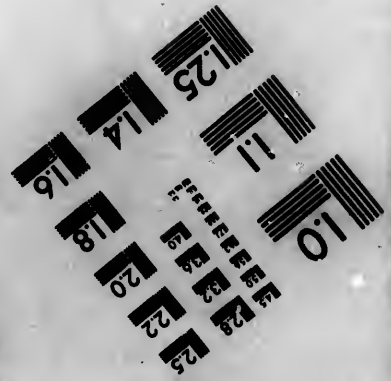
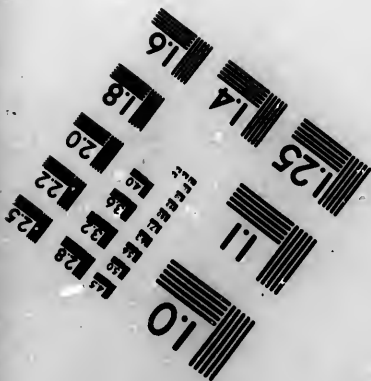
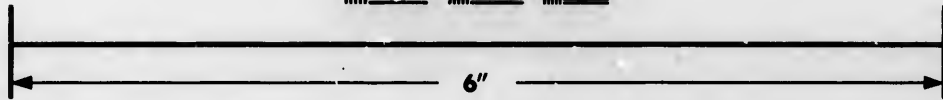
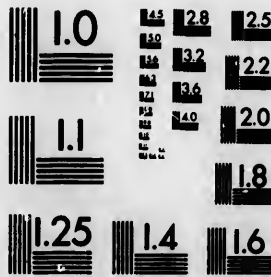
Undoubtedly whatever deserves these encomiums is a sacred treasure not to be parted with or restrained. That they may not improperly be bestowed on *Liberty*, in several usual acceptations of the word, I readily grant. But it appears to me, that, lavished as they are by Doctor PRICE so indiscriminately, throughout his pamphlet, on the mere general power of self-direction, they are very absurdly applied, and strongly calculated to mislead and pervert the notions of mankind in matters of importance. The author indeed has not attempted to *prove* the justness of *his* application of them, but *takes that for granted*; yet such unguarded, general, and indiscriminate assertions, especially where there is an ambiguity and fallacy in the terms, are oftentimes more apt to lead peo-

* See page 5.





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ple into error, and unsettle their notions, than any attempts at demonstration: in order therefore to obviate their ill tendency, I shall beg leave to examine a little into the merit of these fundamental positions of his pamphlet, both in regard to *individuals* and to *communities*.

FIRST, in regard to Individuals: there can be no doubt, but that the power of Self-direction, or a full, complete, and unrestrained Liberty of judging, chusing, and acting for ourselves, and in our own concerns, may be in many respects considered as a blessing; at the same time it is evident, that the exercise of it may be, and is often, restrained or given up, in various ways, for our general happiness, or for particular valuable purposes. That it is always necessarily restrained by the dictates of reason, the laws of nature, the will of our maker, and the natural rights of other men, is an acknowledged truth; but what more especially comes under present consideration is,—its subjection to restrictions by our own express or justly implied consent. Liberty of choice and action was evidently given to man for his advantage and happiness; and though the love of it is a natural principle, yet like other passions it must ever be regulated and directed by Reason.

son. When it is opposed to unlawful and oppressive authority, it deserves the highest commendation. When it opposes itself to just and equitable restraint, it is the parent of anarchy and confusion, and defeats entirely the end it pretends to aim at: for *Licentiousness* is as much the bane of true Liberty as *Despotism*; it equally obstructs the freedom of the self-directive power. It is therefore, as I conceive, one of the noblest uses of Liberty, to consent to subject it to restraint for beneficial purposes. Many cases there are, in which reason and prudence dictate it. The weaknesses, the wants, and infirmities, to which human nature is liable, not to say its desires and passions, beget in many respects not only an expediency but a necessity of subjection. Every body knows the allowable and advantageous restrictions that contracts and promises put upon the exercise of Liberty: but the Civil Compact will be most in point.

Men are by nature and creation politically equal and independent of one another, just as distinct civil communities are in regard to each other. In point of any civil authority and subjection, they are naturally on a perfect level. The striking inconveniences of such a state,
and

and the superior advantages to be derived from uniting in society, under some common direction, for the purpose of general security and welfare, are the foundations of the Civil Compact. The wants, the fears, the desires, and the passions of mankind drove them first into, and keep them in, the bonds of that union, the very essence and design of which is to establish human authority, and restrain self-direction. Nobody shews this better than Mr. LOCKE in his 2d book *on Government*, § 95, 99, and § 123—131. “Men,” says he, “when they “enter into society, give up the equal liberty “and executive power they had in the state of “nature into the hands of the Society, to be “so far disposed of by the Legislature, as the “good of the society shall require;” § 131.—Doctor PRICE has a passage (and a curious one it is), that seems opposed to this idea, as well as to his own definition. “I do not think it,” says he, “strictly just to say, that it belongs to the nature of Government to entrench on private liberty.”*—No! that is very surprizing. Provided we stick to our definition, that “Liberty is *Self-government*,” it follows by undeniable consequence, that civil Government entrenches upon *Liberty*. But the Doctor must certainly

* See page 13.

certainly have had some other substitute in his mind in order to maintain this seeming paradox: let us go on with his reasoning. "Government ought," continues he, "never to do this, viz. entrench on private Liberty, except so far as the exercise of private liberty encroaches on the liberties of others; that is, it is licentiousness it restrains, and liberty itself only when used to destroy liberty." Very curious indeed! He asserts, that the nature of Government does not, justly speaking, entrench on private liberty; and he adds it ought never to do this, viz. entrench on private liberty, EXCEPT as far as private liberty encroaches on the liberty of others, and endeavours to destroy liberty. Is not this saying, that Government does rightfully entrench on private liberty, to wit, whenever private liberty entrenches on the liberty of others; and thus flatly *contradicting*, instead of *proving*, the first assertion? As well might one say, that, justly speaking, it belongs not to the nature of Government to punish,—because it never ought to do it, but when the laws are transgressed.

It is a plain and undoubted truth, that the end of Government is only to restrain an injurious exercise of private liberty, that is, licentiousness;

centiousness; and with a little alteration, or rather omission, the above passage, which I defy any body to make any consistent sense of as it stands now, would have conveyed it clearly and intelligibly in this manner: "It belongs not to the nature of Government to entrench on private liberty any further than private liberty encroaches on the liberty of others."—Thus it would have contained a clear and just intimation, that Government is a most sacred and invaluable blessing, the perfection and security of liberty;—but then, it is just by that very circumstance of restraining Self-government, and of entrenching upon private liberty, which Doctor PRICE terms *Slavery*. How far this truth, thus plainly expressed, would have corresponded with the rest of the author's unguarded theory on the subject, may be judged from what has been already said, or will be further produced.

If what I have stated be agreeable to right reason; if the exercise of liberty is and ought to be subject to many restraints; if the wants, necessities, and happiness of mankind require it to be so; if civil society and government be a most beneficial institution, and the *great instrument*, as Doctor PRIESTLEY styles it, "in
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“ the hand of divine providence of the progress
 “ of the species towards perfection;” *—with
 what propriety can Doctor PRICE, as well in
 the passages above quoted, as in the whole tenor
 of his pamphlet, represent the mere general
 power of SELF-GOVERNMENT of that *supreme*
 consequence and value, so indiscriminately and
 without any limitations, as he does; terming
every restraint of it *Slavery*,—and thus setting it
 up as a supreme standard of right, as a last end
 and prime blessing? Such unguarded, crude,
 and extravagant assertions may pass unnoticed
 in rhetorical or declamatory pieces, as loose
 language not to be strictly taken;—but when
 they are soberly laid down as *correct, just, impor-*
tant, and fundamental principles of LIBERTY in
 general, and of CIVIL LIBERTY in particular,
 and are moreover applied to the most serious
 purposes;—Can they in any wise be justified?

* PRIESTLEY'S *Essay on Government*. Sect. I. p. 2.

S E C T. VI.

Doctor PRICE's Theory of the Liberty of Communities or Civil Liberty examined.

IT is time now to consider the above magnificent encomiums (at the beginning of the last *Section*) in relation to what the Doctor terms CIVIL LIBERTY, or *Self-government* in communities; that is, government by the people, either in person, or by Representatives chosen by their free votes, subject to their instructions, and accountable to them. Indeed he expressly says,—“ I mean to apply to *Civil Liberty* all I shall say of other kinds of liberty;” and asserts,—“ that this *civil* liberty is the prime blessing of man in his *public* capacity;” as also,—“ that without it man is a beast, and Government a curse;” and lastly,—“ that it is an *essential unalienable* right, in so much that the trust of Government may not be committed to any other direction, than that of *the majority of the Community*, or of *Delegates chosen by that majority, subject to its instructions, and accountable to it*”

is likewise; and that any other form of government is *unjust* and *oppressive*." *

What he asserts by all this is in fact,—not only, that such a democratical Constitution seems to him the *best* model of civil polity, but that it is the only *just* and *lawful* form of Government; being such a sacred, invaluable, and important privilege, glory, and blessing, that nothing is of so great consequence to us in our civil capacity: see the beginning of the last *Section*. What reasons the Doctor may have to support such strong and peculiar assertions, I can not conceive, as he has not been pleased to alledge any. To me they seem very strange; and I beg leave to oppose to them the following observations.

In the first place,—I conceive every form of government to be a *lawful* one, that is established on the *consent* of the people. For civil power being in itself a lawful power, and of such a nature, that it can be administered by one or more individuals, it is therefore evident, that it may be lawfully administered by any such persons as the community chuses to en-

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trust

* See page 3, 18, 25, 27, 28, 53, in the *Note*, and 95. Compare the preceding *Sec.* III.

trust it to. Such a cession seems equally *valid*, *binding*, and *lawful*, and in all respects to stand on the *same footing*, as a cession of the civil power to the majority, or its representatives; I add also, equally resumable in case of oppression. Self-determination seems to be equally restrainable in the one case, as in the other,—as well in collective bodies of men, as in individuals,—for valuable purposes.

What can be objected to this I do not see; except the Doctor can alledge some *natural* or *positive* divine law, that prohibits any cession of what he terms *Civil Liberty*. He *says* indeed in one place (what he every where else supposes),—“ that *Religious* and *Civil Liberty* stand “ on the *same footing*, and that the latter is *equally unalienable* by any compacts or cessions as “ the former ;” * and in another,—“ that without *religious* and *civil* liberty man is a poor abject animal, without rights, without property, without a conscience, bending his neck to “ the yoke, and crouching to the will of every “ silly creature, who has the insolence to pretend to authority over him.” †

As

* See page 25.

† See page 5, 6.

As to the liberty of individuals to judge for themselves in regard to religious faith and worship,—I with my whole heart acknowledge it to be a sacred and incontestible right; *unalienable* and *unsurrenderable* to any human authority; but the reasons, why it is so, are peculiar to it, and can not by any means apply to Doctor PRICE'S Civil Liberty. They may be reduced to these following heads: 1st, Religion is the service and due of God Almighty; it may not therefore by us be submitted to the authority or direction of any of his creatures: that would be a manifest contempt of his authority. 2dly, The vital part of it is an inward principle, to which no human authority can reach. 3dly, The value and acceptableness of religious services depend upon personal and real conviction, which no human authority can operate. For these reasons Religious Liberty neither *may* nor *can* be submitted to human authority: but can any of these apply to prove that Doctor PRICE'S *Civil Liberty* is unalienable? Not one! Government was instituted in order to provide for the greater security of mens lives, liberty, and estates, and for the general welfare;—it extends only to the outward act, and its injunctions and purposes are fulfilled by such conformity of the outward man.

Such

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Such therefore is the nature of Government, that it *may, can, nay must* be administered by human authority; exactly in this respect the reverse of the concerns of Religion, which *may not, can not, must not* be imposed by human authority. A man can not be saved or be religious by submitting himself to the dictates of another's conscience; but he and the state may be governed, and well governed too, by the rule and authority of others.

“Were I asked,” says Doctor PRIESTLEY, “what two things I should think to be in the “*least danger* of being confounded, and which “even the ingenuity of men could find the “*least pretence* for involving together, I should “say—the things that relate to *this life*, and “those that relate to the *life to come*.”* I am therefore particularly surprized at Doctor PRICE for having put together these two things, which the friends of Religious Liberty have justly been so careful to separate.

The comparison between *Civil* and *Religious* Liberty can as little apply to shew, “that man, without the former, is a poor abject animal, without rights, without property, without conscience,

* *Essay on Government*, p. 111.

conscience, bending his neck, &c."—Indeed any deduction from the comparison of such dissimilar objects must for ever fail. In the point of view here stated, they are as different as black and white. A man, considered as destitute of all religious liberty, has his *conscience* and *judgment*, in regard to Truth and Falsehood, Right and Wrong, entirely subject to the authority of others;—his mind is enslaved,—and consequently his whole nature;—he has, strictly speaking, nothing but at the will of another. Whereas a man, that gives up his civil liberty, only submits his outward conduct to be regulated,—for the better security of his person, property, liberty, and private rights, from all invasion and unlawful authority;—with tacit reserve of his private judgment, and his natural right to resist or reject this government, when it becomes oppressive or tyrannical.

The difference is so striking as not to want a spark of illustration: nor can I see with what propriety a man can be said to be *without rights and property*, who entrusts another with the direction of his affairs, for the *security* of his rights and property.—Indeed the trust may be abused; his rights and property are much at the mercy of the trustee; but this is inseparable

ble from the nature of the thing; these circumstances are equally true of any Government;—and then in this sense, Doctor PRICE's government by the majority, or its delegates, will equally leave the people *without rights and without property*. But it may be said,—where the people share not in the government, they have no security against the abuse of its power.—This indeed would be talking much more intelligibly, and bringing the matter to a proper point of discussion: there are however many mediums between the people's having *no share* whatever in the government, and *all sharing alike and equally*, either in person, or by representatives in Doctor PRICE's mode. Whether or no his democratical scheme affords the *best security* for a good, equal, and happy government, will be considered in the next *section*. In the mean time, what does experience and the common sense of mankind say to the Doctor's language? Is an English copyholder, is a citizen of *Amsterdam* or of *Bern*, without rights, without property, and in the abject slavery described above,—merely because he has no share whatever in the legislature? No body thinks so, but such as have wrought themselves or others into such a stile by artificial definitions and theories; so as to allow of no difference between being

being subject to the will of a single person, and the being subject to that of a number of individuals connected more or less with the rest of the citizens; or between the governed having *no share at all*, and their having *some share* in the legislature;—which is a manifest perversion of the common language and a confusion of the most obvious differences.

I think myself now warranted to conclude,—that Doctor PRICE has not alledged any thing in the least sufficient to prove *Civil Liberty*, as defined by him, to be *unalienable*, or his democratical scheme of Government to be the only *lawful* and *just* form of civil polity;—and that therefore it still appears to common sense, as it always has done, to be *equally allowable* and *lawful* to adopt any other form, and to cede what Doctor PRICE terms *Civil Liberty*. Doubtless one form of government may be much better calculated than another to answer the ends of civil society,—much less liable to abuse,—and affording more security for an equal and just administration: but God almighty, not having prescribed any particular form by the dictates either of Reason or Revelation, has left the settling of that matter to men's wisdom and prudence. I shall therefore now proceed

to consider,—whether that so peremptorily prescribed by Doctor PRICE be the best and most eligible model,—or the most likely to answer the ends of the civil union?

S E C T. VII.

Whether Doctor PRICE's model of Civil Government is the best and most eligible form?

THE Doctor judges peremptorily, that a pure Democracy, in which every member is entitled to give his suffrage in person and capable of being chosen into public offices,—is the most *perfect* and *excellent* form of government: but *that* being impracticable in larger states, a diminution of the sacred and invaluable blessings of CIVIL LIBERTY becomes unavoidable, yet must be diminished as little as possible; so that that government approaches the nearest to the standard of right, in which the people have the *most share* and the most controlling power over those, by whom it is administered.*

* See page 7, 11.

I can by no means agree to this sentiment, and think rather with Doctor PRIESTLEY,—“that such a pure Democracy is not only *not possible*, except in exceeding small states, but that, if practicable, it would not be generally *for the good of mankind*; and that it is no *easy* matter, to ascertain in *what manner* a restraint should be put upon this highest degree of liberty, or *how far* it should extend.”* It would be in vain to seek for a perfect government, *Optimus ille est, qui minimis urgetur*, must be our rule here. Every devisable form must necessarily be accompanied with many defects under the administration of man. Those therefore must be pronounced the *best* constitutions of Government,—which bid the fairest to answer the ends of the political union. Thus far is no difficulty. If Doctor PRICE can prove that those valuable ends are likely to be best obtained, and with the fewest inconveniences, by his democratical constitutions,—he will then gain his cause: but till then other people will concur with the most esteemed writers on Government in thinking very differently. For my part, I esteem much Doctor PRIESTLEY'S *Essay on the first principles of government and the nature of Liberty*, and think it will not be un-

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edifying

* *Essay on Government*, p. 15, 16.

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edifying to oppose here his cautious and judicious remarks on his complicated subject to Doctor PRICE's peremptoriness.

“ In general it should seem, that none but
“ persons of considerable fortune should be ca-
“ pable of arriving at the highest offices in the
“ Government; not only because, all other
“ circumstances being equal, such persons will
“ generally have had the best education, and
“ consequently be the best qualified to act for
“ the public good; but because also they will
“ necessarily have the most property at stake,
“ and will therefore be most interested in the
“ fate of their country.—Let it be observed,
“ however, that what may be called a *moderate*
“ fortune (though a thing of so variable a na-
“ ture cannot be defined) should be considered
“ as equivalent in this respect, to the most
“ affluent one. Persons, who are born to a
“ moderate fortune, are, indeed, generally bet-
“ ter educated, have, consequently, more en-
“ larged minds, and are, in all respects, more
“ truly *independent*, than those who are born to
“ great opulence. For the same reason, it may,
“ perhaps, be more eligible, that those, who
“ are extremely dependent, should not be al-
“ lowed to have votes in the nomination of the
“ chief

chief magistrates, because this might, in
 some instances, be only throwing more votes
 into the hands of those persons on whom they
 depend. But if, in every state of consider-
 able extent, we suppose a *gradation* of elec-
 tive offices, and if we likewise suppose the
 lowest classes of the people to have votes in
 the nomination of the lowest officers, and, as
 they increase in wealth and importance, to
 have a share in the choice of persons to fill
 the higher posts, till they themselves be ad-
 mitted candidates for places of public trust;
 we shall perhaps form an idea of as much po-
 litical liberty as is consistent with the state of
 mankind. And I think experience shews,
 that the highest offices of all equivalent to
 that of *King*, ought to be in some measure
 hereditary, as in England; elective monar-
 chies having generally been the theatres of
 cabal, confusion, and misery."----- "But
 though the exact medium of political liberty,
 with respect either to the *property* of men in
 offices of trust, or to their *continuance in power*,
 be not easily fixed, it is not of much conse-
 quence to do it; since a considerable degree
 of perfection in government will admit of
 great varieties in this respect; and the ex-
 treme of political Slavery, which excludes
 all

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" all persons, except one, or a very few, from
 " having access to the chief Magistracy, or from
 " having votes in the choice of magistrates,
 " and which keeps all the power of the state in
 " the same hands or the same families, is easily
 " marked out, and the fatal effects of it are
 " very striking." - - - - - " It is comparatively
 " of small consequence *who*, or *how many*, be
 " our governors, or *how long* their office con-
 " tinues, provided their power be the same
 " while they are in office, and the administra-
 " tion be uniform and certain. All the differ-
 " rence, which can arise to states from diversities
 " in the number or continuance of gover-
 " nors, can only flow from the motives and op-
 " portunities which those different circumstances
 " may give their deputies of extending, or
 " making a bad use of, their power." - - - - - " If
 " the power of Government be very extensive,
 " and the subjects of it have, consequently,
 " little power over their own actions, that go-
 " vernment is tyrannical and oppressive; whe-
 " ther, with respect to its form, it be a mo-
 " narchy, an aristocracy, or even a republic.
 " For the government of the temporary magi-
 " strates of a democracy, or even the laws them-
 " selves may be as tyrannical as the maxims of
 " the most despotic monarchy, and the admi-
 " nistration

DR. PRICE'S THEORY. 103

“ nistration of the government may be as de-
“ structive of private happiness.” ----- “ If
“ there were no fixed laws, but every thing
“ was decided according to the will of the per-
“ sons in power, who is there, that would
“ think it of much consequence, whether his
“ life, his liberty, or his property were at the
“ mercy of one, of a few, or of a great num-
“ ber of people, that is, of a mob, liable to
“ the worst of influences. So far, therefore,
“ we may safely say, with Mr. POPE, that
“ *those Governments, which are best administered,*
“ *are best* :—that is, provided the power of go-
“ vernment be moderate, and leave a man the
“ most valuable of his private rights: provi-
“ ded the laws be certainly known to every
“ one, and the administration of them be uni-
“ form, it is of no consequence, how many, or
“ how few persons are employed in the admi-
“ nistration.” ----- “ The governments now
“ subsisting in Europe differ widely in their
“ forms; but it is certain, that the present
“ happiness of the subjects of them can by no
“ means be estimated by a regard to that cir-
“ cumstance only. It depends chiefly upon the
“ power, the extent, and the maxims of go-
“ vernment respecting personal security, pri-
“ vate property, &c. and on the certainty and
“ uniformity

“uniformity of the administration.”* Doctor PRIESTLEY remarks indeed very justly,—that there is not the same chance for equal and good laws, or the uniform administration of them, whether the power be lodged in few, or in more hat. 3; and that a participation of a number of the people in the legislature, or in any powers of controlling the supreme magistrate, affords a considerable degree of security against an oppressive administration: † yet he is far from determining peremptorily the necessary degree of this participation, either as to numbers or nature, much less extending it to an *equal share*, or setting up *pure Democracy* as the fixed standard of right, to which we are to approach as near as is practicable.

Indeed it appears to me, that reason will allow of great latitude and variety in forms of government according to different stages of society, in regard to civilization, simplicity, virtue, manners, property, &c. I consider perfection in a form of civil polity as in a great measure relative to *those* circumstances,—by which the species of man and his concerns are

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* *Essay on Government*, page 16, 17, 18, 20, 21, 48, 49, 50, 51, 52.

† *Ibid*, page 51, 59.

so differently modified: a rude and artless plan might succeed well in early days, while more of the earlier simplicity and innocence of manners was preserved. But when luxury and corruption of manners crept in, men would soon find the necessity of more artful politics*. Such a mode of government, as may be very well calculated for the state of human nature in *Otabeite*, would certainly not answer the ends of the civil union among the more civilized nations of Europe.

I have also my doubts, whether such less perfect Democracies as Doctor PRICE confines us to,—viz. “an equal, fair, and adequate Representation, chosen for short terms by the unbiassed voices of the majority of the state, subject to their instructions, and accountable to them,”—be more *practicable*, than that perfect state of civil Liberty and self-government, by the personal suffrages of every citizen, which he so highly extols. But let us take mankind at a medium, and admit the practicability of Doctor PRICE's theory: and then I must still affirm, that, upon considering maturely the nature of mankind, the ends of government, and the experiments that have been tried,—it

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appears

* HUTCHESON'S *Moral Philosophy*, book iii. ch. vi. sect. 7.

appears to me not calculated to obtain the greatest happiness for the people; and therefore I can not but join with the generality of writers on the subject in giving my vote against it. Its professed aim is to vest the administration of civil power, as much as possible, under the direction of the people at large;—Doctor PRICE's fair, equal, and adequate Representation must be entrusted only for *short terms*, must be *subject to the instructions* of the people at large, and *accountable* to them: see my 2d *Section*. Some people, who have never considered the matter, are apt weakly to imagine, that *Democracy* is a security against *Tyranny*, and they are encouraged in it by those that know better. Such there were in LOCKE's time: " 'Tis a mistake," says he, " to think tyranny " is proper only to Monarchies: other forms " of government are liable to it as well as that: " for wherever the power, that is put in any " hands for the government of the people and " the preservation of their properties, is ap- " plied to other ends, and made use of to im- " poverish, harass, or subdue them to the ar- " bitrary irregular commands of those who " have it; there it presently becomes *tyranny*; " whether those that thus use it are one or " many; " *—and Doctor PRIESTLEY very properly

* *On Government*, book ii. § 201.

perly reminds his readers, "that the govern-
 "ment of the temporary magistrates of a de-
 "mocracy may be as tyrannical as the maxims
 "of the most despotic monarchy, and the ad-
 "ministration of the government may be as
 "destructive of private happiness. The only
 "consolation that a democracy suggests in these
 "circumstances is, that every member of the
 "state has a chance of arriving at a share in the
 "chief magistracy, and consequently of play-
 "ing the tyrant in his turn."*

Having thus removed the above ridiculous prejudice, I can not but further agree with the last-mentioned excellent writer in considering government in the hands of a *great number of people*,—as the government of a *Mob, liable to the worst of influences*†. And what is more likely to be *abused*, than power in such hands?—from want of judgment and of wisdom; from irresolution and precipitation; from the influences of faction, of ambition, of revenge, and of every evil disposition. Hence it is that Republican tyranny and oppression have been so frequent, so obstinate, so capricious, and so arbitrary; and have vented their fury so much on the

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* *Essay on Government*, page 49, 50.

† *Ibid.* page 51.

the best of mankind: nay! Doctor PRICE himself says,—“that bodies of men have generally “proved the most unrelenting of all tyrants.”*

—Although the body of the people be ever so well-intentioned for the public good, yet their power naturally devolves upon, and is guided by, a few persons of greater abilities or influence than the rest (witness the subordinate democratical bodies in our state); or else there is a continual struggle of bribery, corruption, artifice, power, or even violence, till the state falls a prey to one party (and then the same scene is in a little course of time renewed again), or ends in a *Monarchy*, or an *Aristocracy*, or in some *mixed form*. Thus it has always been, and necessarily must be, with those commonwealths, whose constitutions have approached the nearest to that which Doctor PRICE pronounces *perfect*. Reason and Experience demonstrate, that Democracies, attempted on such a large scale as his, can not subsist, consistently with the nature and benefits of civil society, or the happiness of the people themselves.

Let the wise Republican BURLAMAQUI, one of the most esteemed writers on Government, speak on this subject. After having repudiated
absolute

* See page 29.

DR. PRICE'S THEORY. 159

absolute monarchies, he says,—“The *popular*
“are no better; ----- formed by the multi-
“tude, it assumes all the characters of it. The
“multitude is a mixture of all kinds of peo-
“ple, a few men of parts, some who have
“good sense and honest intentions; but a far
“greater number, who can not be depended
“upon, who have nothing to lose, and who
“consequently can not be safely trusted. Be-
“sides a multitude always produces slowness
“and disorder. Secrecy and foresight are ad-
“vantages unknown to it. Popular states have
“too much liberty; it degenerates into licen-
“tiousness. Hence it is that they are weak and
“staggering. Commotions at home, or at-
“tacks from abroad, often throw them into a
“consternation: 'tis their ordinary fate to be
“the prey of the ambition of some citizen or
“some strangers, and thus to pass from the
“greatest liberty to the greatest slavery.”—Af-
ter attesting the experience of *Poland* (which is
too popular a government under the appear-
ance of a monarchy), of *Florence*, of *Genoa*, of
antient *Athens*, and of *Rome* (which, by means
of the people gradually usurping on the autho-
rity of the Senate, and the consequent licen-
tiousness, was at last reduced to the greatest
Slavery), he adds;—“'Tis therefore not to be
“doubted,

“doubted, after so many proofs, but popular
 “governments are the weakest and worst of all.
 “Certainly if we consider the education of the
 “vulgar, their application to labour, their ig-
 “norance and brutality, we must readily per-
 “ceive, that they are made to be governed,
 “and not at all to govern others; and that
 “good order and their own advantage forbid
 “them to interfere with that charge.”*

I beg leave to quote Doctor HUTCHESON,
 another not less esteemed writer on *Govern-
 ment*.—“In all forms of Democracy one may
 “be sure of fidelity. The popular Assemblies
 “always desire the good of the whole as it is
 “their own. But where the whole power is
 “lodged in such Assemblies, without any check
 “or controul by a Prince or Senate, there is no
 “security for wisdom, unity, or secrecy. This
 “is obvious, where all the free men meet in
 “the Assembly, there is no hope of wisdom,
 “no avoiding seditions, no stability of coun-
 “cils. Suspicion and envy can be raised by
 “artful selfish demagogues against all virtue
 “and eminence, even where there is the great-
 “est need for them. Their resolutions are
 “sometimes extravagantly bold; and again,
 “when

* *Principles of Politic Law*, Part ii. ch. ii. § 22—29.

“ when a panic is raised, abjectly timorous.—
 “ When the power is committed to a nume-
 “ rous assembly of popular deputies or repre-
 “ sentatives for a short term; equal fidelity
 “ may be expected, if they are fairly elected
 “ by a popular interest, and much more wis-
 “ dom and stability: and yet there is no secu-
 “ rity here against faction and sedition; and as
 “ the humours of a people change at the dif-
 “ ferent elections, there may be too much in-
 “ stability.—Electing by the lot, as it excludes
 “ all briguing and bribery, so it excludes all
 “ prudence in the choice, and all regard to me-
 “ rit: unless there be first a lect, or small num-
 “ ber of candidates for each office, chosen by
 “ suffrage, and then one of this number deter-
 “ mined by lot: constituting the supreme As-
 “ sembly so that matters are determined by
 “ plurality of centuries, and not of single suf-
 “ frages; may cast the power much into the
 “ hands of men of superior stations and know-
 “ ledge, but gives no security against sedi-
 “ tions:” and from hence he concludes, that
 neither these Democratical Constitutions “ can
 “ be *safe* for a society.” *

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* *Moral Phil.* book iii. ch. 6. § vi. and vii.

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I must oppose one more esteemed author to Doctor PRICE:—" We need not wonder therefore, that *Democracy* has always had many advocates; that it has been presented in the fairest and most plausible colours; and that it has been cried up as of all others the most favourable to virtue, merit, and liberty. At first sight indeed it appears so to be; but a very little consideration will shew us, that it must be subject to many and great inconveniences. While the Government is small and low, a democratic state is generally in a happy and flourishing condition, that is to say, it is purest, and answers best the end of its institution; by which it enlarges and dilates itself, arriving quickly at a high degree of prosperity, which, from the nature of its constitution, it is not able to bear: for as Aristocracies are commonly subject to cabals, so Democracies are almost always disturbed with factions; and the more potent the Republic, the more wealthy its subjects, the more active those who are intrusted with the Government, so much the more liable it is, and must be, to such seditions and commotions; which after frequent and violent resolutions, always fatal to many individuals, end either in a subversion of that form, or in the corruption

DR. PRICE'S THEORY. 113

“ruption of it, by resting the power in the
“hands of a few considerable families, and
“then it becomes an *Oligarchy*; or, by a perpe-
“tual fluctuation of authority, becomes what
“is called *Anarchy*.”*

SIDNEY absolutely disclaims the defence of such democratical schemes of civil polity, and gives the preference to *mixed forms*. † Doctor PRIESTLEY, as we have seen, does the same. Neither Mr. LOCKE nor the excellent Bishop HOADLEY, decide any where that I at present recollect concerning the preference of one *form* of Government to another; positive I am, that they no where give it to Democracies, but rather to mixed forms. *Scripture* does not determine the matter. One should therefore be very curious to know, by what title Doctor PRICE asserts,—that the *Principles* he lays down “are the *same* taught by Mr. LOCKE and all the “writers on Civil Liberty, who have been hi- “therto most admired in this country.” ‡

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Where

* DUNCAN on *Laws and Government*, in the *Preceptor*, Vol. II. page 480.

† On *Government*, page 149, 150, 23, 130. Folio, London 1751.

‡ *Preface to the 5th edition of his Pamphlet.*

Where does LOCKE teach *such principles*, and who are those *most admired writers*?

It may possibly be asked then,—whether I think government by *one man*, or by a *few principal persons*, to the exclusion of the main body of the people, be better than vesting that trust, according to the mode prescribed by Doctor PRICE, in the collective body of the Community? I answer by a disapprobation of any one of these schemes; being persuaded that no one of them, singly, affords the best security attainable for an equal, good, and happy Government. It is, in my opinion, only by a judicious composition of them, that we can avoid the dangerous inconveniences, and attain the beneficial advantages, of each. It is not here the place to detail the *peculiar* and *distinctive* inconveniences of each of the simple forms; but I will just point out one, which is *common* to them all taken singly.

Supreme civil power is a trust of the most important and extensive nature,—necessarily in a great measure discretionary in its exercise,—capable of the most oppressive abuse,—and offering no slight temptations to the self-interest and passions of those that are possessed of it.

Now

Now the above simple plans of civil polity afford no other check against the abuse of this great trust, than the *natural* right of the people to resist tyranny and oppression and to repel lawless power; which manifold experience shews to be in general a very inadequate one, as it necessarily must be, from the nature of the thing; because the natural and the necessary powers of Government must ordinarily afford a variety of potent means to obviate the exertion of opposition and resistance. It is in vain to think you can be desirably secured by vesting this trust in a great number of people,—or in the will of the majority of the state; for there it is equally liable to flagrant abuse: it naturally devolves into the hands of a few, and becomes, as Doctor PRIESTLEY says, the government of *a mob, liable to the worst of influences*; not to mention the impracticability and other inconveniences before alledged, which render such a constitution in other respects inadmissible. What then? You cannot place any *superior* civil power over this trust,—because the very thing we are searching after is security against the abuse of the *supreme* civil power, in whatever hands intrusted. It may perhaps be said,—that fixed laws, established customs, express stipulations of Governors, or solemn oaths,

are proper constitutional securities: but that true guide, experience, shews, of how little avail these are without constitutional *powers* to back their observance. The transgression therefore of those bounds being unchecked in the simple forms of Government by any other restraint, than that of the people's *natural* right of resisting lawless rule,—they add not much to our security, at least afford not that more substantial kind of it, which we want and is attainable.

The only expedient that the wit of man, instructed by multifarious experience, has been able to devise for this purpose, is,—to divide the various powers of legislation and civil Government, and to dispose the modes of obtaining and exercising them, in such a manner, among different individuals and bodies of men, as to make them serve as mutual checks on one another,—and so to circumstance and compound the supreme Legislature, as to avoid the evils of Democracy by excluding the great body of the state, but at the same time to render it so nearly connected and related to the people in general, that the Legislators may be subject to their influences, nearly affected by their prosperous or adverse state, and, as individuals,

viduals, subject, equally with the rest of the community, to the general laws and to the supreme legislative and executive authority. Every body perceives that this may be done; with more or less good effect, in proportion to the judiciousness of the disposition, in an endless variety of methods, by different combinations of those simple forms above-mentioned;—it has been successfully tried in various manners both in ancient and modern times; and affords evidently the fairest probability of a good, wise, equal, and happy government. These kinds of mixed constitutions have also the countenance of the most esteemed ancient and modern writers on the science of Government.

*Statuo, says CICERO, esse optime constitutam Rempublicam, quæ ex tribus generibus illis, regali, optimo, et populari, sit modice confusa.**

SIDNEY says,—“The wisest, best, and far
 “the greatest part of mankind, rejecting the
 “simple species, did form governments mixed
 “or composed of the three, which commonly
 “received their respective denomination from
 “the part that prevailed, and did deserve praise
 “or

* *Frag. de Rep. lib. ii.* The opposite judgment of TACITUS has long since been refuted by repeated experience.

“or blame as they were well or ill-proportion-
 “ed.”-----“If I should undertake to say
 “there never was a good government in the
 “world, that did not consist of the three simple
 “species of Monarchy, Aristocracy, and Demo-
 “cracy, I think I might make it good:” and
 accordingly the 16th section of his 2d chapter is
 entitled,—*The best Governments of the world have
 been composed of Monarchy, Aristocracy, and De-
 mocracy.**

MONTESQUIEU says,—“*La Democratie et
 “l’Aristocratie ne sont point des etats libres per leur
 “nature. La liberte politique ne se trouve que dans
 “les etats moderés. Mais elle n’est pas toujours
 “dans les etats moderés. Elle n’y est que lorsqu’on
 “n’abuse pas du pouvoir.-----Pour qu’on ne
 “puisse abuser du pouvoir, il faut que, par la dif-
 “position des choses, le pouvoir arrete le pou-
 “voir.”*†

BURLAMAQUI decides on the same side of the
 question, and concludes,—“that the best forms
 “are either a limited Monarchy, or an Aristo-
 “cracy

* *On Government*, Chap. i. sect. x. Chap. ii. sect. 16.

† *Esprit des Loix*, Liv. xi. chap. 4.

“cracy tempered with Democracy, by some
“privileges in favour of the people.”*

I could alledge many more esteemed writers, whose judgments coincide with this sentiment: but at present I only observe it is a satisfaction to me, that my theory on this subject tallies so well with the established constitution of my country.—What Doctor PRICE may be able to alledge against what has been urged in the preceding pages, either from my own reflection or from others, I can not say; but hitherto his principles of government are mere gratuitous assertions unaccompanied with argument. For what argument is there in shewing that they are agreeable to *his* definitions of *Liberty*, which contain the very principles to be proved? Let him but *prove* that what he terms *Civil Liberty* is such an *invaluable, glorious, and unalienable blessing* as he represents it,—his theory will then be established: till then I flatter myself the foregoing observations will sufficiently shew its inconsistency with truth and right reason.

* *Principles of Politic Law*, Part ii. ch. ii. § 44.

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S E C T. VIII.

*Advantages improperly represented by Doctor PRIEST
as peculiar to his Theory.*

IN order to recommend his system of Civil Government to our approbation, the Doctor falsely attributes several properties to it as *peculiar* advantages attending it above all other plans. I shall shew this in the most important particulars,—in such as are most calculated to mislead.

1. He speaks of all communities not governed according to his theory——“as not *self-governed*, not governed by their *own will* and *discretion*, or by laws of their *own* making, but as subject to *foreign* discretion, to the impositions of *extraneous* will or power, and therefore in *slavery*.”* There is a fallacious ambiguity here in the words *foreign* and *extraneous*, which is more calculated to confound, and to suit the author’s purpose of recommending his principles, than to serve the cause of truth;—though
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* See page 3, 7, 11, 19, 25.

I presume not to say he intentionally made use of this fallacy. I beg leave to obviate its ill-tendency; it occurs in several places besides those last quoted in the margin.

A *foreign* and *extraneous* will or power, in the common and usual sense of the words, when we are speaking of civil communities, always means—the power or will of a community not united by the same social compact under the same supreme government as ourselves: consequently it should seem as if the Doctor asserted, that all states, not governed according to *his* democratical plan, were subject to the power and authority of *another state*; and thus those, who give him credit for the assertion, are naturally biassed to reject all governments that are loaded with such an ignominious evil. But this can not be his meaning; because he could never mean to say, that every community, not governed by the will of the majority (which is his definition of a state's *own will*), is therefore governed by a *different distinct foreign* community: *extraneous* and *foreign* will, in these assertions of Doctor PRICE's, mean therefore nothing more, than—any will distinct from that of the majority, or its representatives as specified by him. Whether Government by an *own* or by a

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foreign

foreign will, in the Doctor's sense of the words, be most eligible?—has been already considered.

Having got over this stumbling block, his assertion becomes reduced to this;—“that a state, not governed according to his scheme, can not be said to be governed by *its own will* or by laws of *its own making*.” Indeed to say the truth, provided the government be a just and lawful one, and such as is calculated to promote the happiness of the people, it is very immaterial, whether self-direction can, in strictness of speech, be predicated of it or not: but it seems to me, that a state governed by any particular mode of polity, which it thinks fittest to adopt, may with just as much propriety be said to be governed by *its own will*, as if the administration was actually carried on by the voices of the majority:—the same reason, the same compact, that makes the will of the *majority* to be considered as the will of the *whole*, makes equally the will of every lawful government to be considered in the same light. In neither case is it grounded on the strict literal truth of the thing, but in both equally on the foundation of justly implied *consent*. Nay I does not Doctor PRICE himself say,——“that the
 “ members of a state may entrust the powers
 “ of

“ of legislation with any number of Delegates ;
 “ and that whatever is done by such Delegates,
 “ within the limits of their trust, may be confi-
 “ dered as done by the united voice and counsel of
 “ the community ?” * And yet he affirms it to
 be a contradiction in terms—to say, that a state,
 not conducted under the direction of the people,
 GOVERNS ITSELF. † How these things are to
 be conciliated together the Doctor can best ex-
 plain.

2. The Doctor mentions it as a prerogative
 of his free states,—“ that every member of
 “ them is his own legislator.” ‡ But this is by
 no means true: according to Doctor PRICE the
 majority, or the representatives of the majori-
 ty, are to make laws binding upon the whole
 community. “ What is done by them, within
 “ the limits of their trust, may be considered
 “ as done by the united voice and counsel of
 “ the community.” § In his free states there-
 fore many are liable to be bound by laws,—to
 which they not only do not actually consent,—
 but which they really and expressly dissent
 from. In what sense are such persons *their own*
legislators? They may have other advantages,
 Q 2 but

* See page 7, 8.

† See page 7.

‡ See page 6.

§ See page 8.

but certainly they are no more their own legislators, than every copyholder in England is, or than many thousands of good wealthy British subjects are, who have not a grain of Doctor PRICE's *civil liberty*. If you limit and qualify the sense of the expression, then it will be more or less true of other schemes besides. *Literal-ly* it is true of none. Indeed, to speak with exact propriety, one ought to reverse the Doctor's proposition, and to affirm, that agreeable to the import of the social compact,—*no man is his own Legislator*: it is the united voice of the legislative body that makes the laws; it is that body which is the *Legislator*, supreme over every individual. Thus much for *words* again! Whether or no it be *best*, that *every* man should share in the legislature? (which is the only *reality* in question)—has been already considered.

3. Another advantage the Doctor attributes to his free states is, that in them—"all taxes are *free gifts*."* Pray from *whom* to *whom*? I do not know how to conceive this. The governing power being in the body of the community,—does the community give itself taxes? Or is the meaning that every individual *gives freely* to the general fund?—What! as much

OF

or as little as he pleases? No! The majority or its delegates agree to and ordain such and such supplies to be raised in a certain prescribed mode. Very well! Suppose now a minority to dissent from these taxes: are they nevertheless *bound* to pay their quota? Yes!—and yet they are free gifts! Wonderful magic of *such* free constitutions, by which a tax levied upon a man by force, downright against his consent,—is denominated a *free gift*! Doctor PRICE may just as well affirm, that in every free state, malefactors go *freely* to prison and to execution. The truth of the matter is, that taxes are not by any means *gifts* from the governed to their governors,—no more than every law is an actual voluntary surrender of private liberty: these are absurdities repugnant to the nature of civil society, which I defy any Doctor in the kingdom to make good. The *right* of raising the necessary supplies, as well as of enacting laws, is vested in the majority of the community, or in those, to whom they have entrusted it; and the obedience of individuals to that authority and its lawful acts is not matter of their *free choice*, but of *duty* and *necessity*. Indeed in certain mixed constitutions of government, the right of apportioning and fixing the necessary taxes may be vested in persons distinct

distinct from those who have the supreme executive power,—may, for instance, be reserved to the people at large, or to certain representatives chosen by them: in such a distribution of power taxes may, in more than one view, be justly termed *gifts* and *grants* to the *executive magistrate* for the purposes of supporting his dignity or administering the concerns of government. And the propriety of using those terms may be much enhanced by the particular modes of such division of power, as well as by the ends they are intended to serve. But I enlarge not further on this point. It suffices to have shewn, that taxes neither are, nor can be, *free gifts*, in the peculiar sense contended for by Doctor PRICE.

4. The Doctor's principles are further artfully recommended,—*1st*, by his insinuating, that they can not be contradicted, but on the absurd foundation, “that government is not the
 “result of a convention between the people and
 “their rulers, and that there are certain men
 “who possess in themselves, independently of
 “the will of the people, a right of governing
 “them,” which they derive from the Deity;” *
 —and *2^{dly}*, by boldly asserting his principles to be “the same with those taught by Mr.
 “LOCKE

* See page 16.

“LOCKE and all the writers on civil liberty, who have hitherto been most admired in this country.” *

As to the *first*, it is a most palpable misrepresentation: every body perceives it to be very consistent,—to maintain, that the only foundation of all lawful government is the consent of the people,—and yet to deny, that such a democratical polity, as DOCTOR PRICE recommends, is the *best* and only *just* form of government. It is also a fact, that many of the most respectable writers on the subject have, and do still, maintain the former, and deny the latter, as GROTIUS, PUFFENDORF, SIDNEY, BURLAMAQUI, MONTESQUIEU, BLACKSTONE, PRIESTLEY, &c. &c.

In regard to the *second* article,—I have in the preceding *sixth* and *seventh Sections* pointed out several very material differences between DOCTOR PRICE'S sentiments, and those of some of the most admired writers on the subject of Civil Liberty and Government; nay! it has appeared that they are point blank against his democratical plans. As the Doctor particularly names Mr. LOCKE, I have on this occasion again

* Preface to the 5th edition.

again read carefully over his admirable treatise on *civil Government*, but can not find, that he any where patronizes such principles of civil liberty or government as are laid down in the pamphlet now before me: the very reverse appears to me to be the case. I have instanced this already in one or two particulars; but it would be too tedious and even unnecessary to enter here on a comparative view of Mr. LOCKE'S and Doctor PRICE'S principles, and I therefore content myself at present with opposing my *denial* to the Doctor's *assertion*. It is indeed matter of great indifference, whether his principles coincide with those of LOCKE or not. Whether they are founded in *truth* and *reason*—is the only question of moment; and that has been considered.

SECT.

S E C T. IX.

Remarkable inconsistencies and inaccuracies of Doctor PRICE, in the delivery of his Principles.

THOUGH Doctor PRICE was urged by *strong feelings** to publish his principles of Civil Liberty and Government, yet it seems sometimes, as if he was *checked by the consciousness*† of their not tallying so roundly as he could wish with reason, experience, and the excellent constitution of this country. This at least is certain, that notwithstanding his theory is sufficiently evident from plain and determinate passages, as well as from the general tenor of his observations,—he nevertheless intermixes several things quite inconsistent with it, and is guilty of very gross inaccuracies; in such a manner as tends to hide, more or less, the weakness and extent of its principles. I think it incumbent on me to point out briefly the most remarkable of these. This seems necessary to corroborate and complete my preceding observations concerning the nature of his Theory.

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* See page 1.

† See page 2.

The Doctor's first definition of *Civil Liberty* will apply to *every* independent state,—to the most despotic government in Europe. “CIVIL LIBERTY,” says he, “is the power of a *civil* society or *state* to govern itself by its own discretion, or by laws of its own making, without being subject to any foreign discretion, or to the impositions of any extraneous will or power.”*—Taking the terms here used in their common sense, it is plain that every independent community, whatever be its form of government, enjoys *this* Civil Liberty: the kingdom of *France* or of *Spain*, for instance, is not subject to any *foreign* discretion, or to the impositions of any *extraneous* power, but is governed by the discretion of its own peculiar Legislative,—and enjoys therefore, according to the above definition, CIVIL LIBERTY. But by the Doctor's further explanation it becomes applicable to *no* state: for we find in the pages immediately following, that by *foreign* discretion and *extraneous* power he means *any will distinct from that of the MAJORITY of a community*; so that no state is *governed by itself* or by its *own discretion*, according to his use of the terms, that is not governed by *that majority*:—he calls any supreme power distinct from that majority

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* See page 3.

a power INDEPENDENT of the community.* Hence results at last the following explicit definition of *Civil Liberty*:—it is government by “the will of the majority;” and *Civil servitude* or *Slavery* consists in the being governed by “any will distinct from that of the majority.” †

Having got to this point, the Doctor says,—it is obvious from his principles “that all civil government, as far as it can be denominated *free*, is the creature of the people. . . . All its different forms are no more than so many different modes, in which they chuse to direct their affairs and to secure the quiet enjoyment of their rights.” ‡ This is not just. All legal government is the creature of the people, whether a *free* one in his sense as just explained, or not: but in truth there is, according to the above definition, but *one* form consistent with true *civil liberty*. He should therefore have said,—There are *no different forms* according to the true principles of liberty;—there is only *one lawful* and *just* constitution of civil government.

“All the members,” he says, “of a state may entrust the powers of legislation, subject

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“to

* See page 4. † See page 5. ‡ See page 6.

“ to such restrictions as they shall think proper,
 “ with any number of delegates: and whatever is
 “ done by such delegates, within the limits of
 “ their trust, may be considered as done by the
 “ united voice and counsel of the Community.
 “ In this method a free government may be
 “ established in the largest state: ----- in this
 “ case it is evident the state will be still *free* or
 “ *self-governed.*” * In the first place, — it is a very
 unwarrantable inaccuracy for him to stile such
 states *free*, since not only his definition will not
 apply, but he himself expressly terms such a
 delegation a *diminution of liberty*. Suppose the
 people of England to entrust the powers of leg-
 islation with *four, six, ten, or twenty* Delegates
 for their lives, or any surviving two of them; *this*
 comes within the line marked out in the
 above passage: but would such a state be *free*
 or *self-governed*? So far from it, that, according
 to the whole tenor of Doctor PRICZ’s theory, it
 would be in the most abject *Slavery*: see in
 particular the definitions; “ A state not govern-
 “ ed by the majority is *not free* or *self-governed*,
 “ —but in *Slavery.*” † Is this proceeding with
clear, correct, and determinate ideas on a subject
 so important in itself, and especially so in the
 Doctor’s application of it? He says indeed, —

“ a

* See page 8, 9.

† See page 5.

“ a *diminution of Liberty*, that is (according to his definition) some degree of *Slavery*, is *necessary* in large states.” * Be it so. That does not mend the matter. *Unavoidable Slavery* is as much *Slavery* as that which may be declined; and his definition suits both equally. But in the second place,—the Doctor sets his own inconsistency in the paragraph above quoted, and the truth of my remark upon it, above all possibility of evasion; by affirming—“ that if the persons, to whom the trust of government is committed, are chosen for long terms; and if during that term they are subject to no controul from their constituents, the *very idea of LIBERTY will be LOST.*” † If this be true,—what then becomes of his foregoing general assertion, “ that a State, *entrusting its powers of legislation and government with any number of delegates, in such a manner as it shall think proper, will be still FREE or SELF-GOVERNED?*” Surely this is confounding one with a witness! He expresses himself however more accurately immediately after, by saying,—“ that the state will be *more or less FREE*, in proportion as it is *more or less fairly and adequately represented.*” ‡ That is, the delegation may be such as to leave the state *no freedom at all*, as he more explicitly observes

* See page 7. † See page 10. ‡ See page 9, 10.

serves a few lines further. How absurd is it not then, to affirm,—that a state, which according to his own confession may be so constituted as not to have a grain of *Civil Liberty*, will be still FREE OR SELF-GOVERNED ?

However, after all this incoherent and incorrect view of the subject, the author forms a more determinate position; and we arrive at another explicit description of what he means by *Civil Liberty* and a *free State*; viz. “that state is *free*, which is guided by its own will, or by the will of an assembly of representatives appointed by itself and accountable to itself: and every state not so governed ----- is in *slavery*.”* That by *itself* is here meant the *majority* of members of which the community consists, and by *its own will* is intended *the will of that majority*, — is evident from the explanations the Doctor had previously delivered. How this description can agree with the general definition before laid down, I stay not to investigate;—heartily glad to set my foot on some determinate fundamental principle, which might guide me safely in the further examination of his theory. But this very passage is instantly followed by some things strangely

* See page 11.

strangely incoherent with it, and with the rest of the system: for after defining a free state in the manner just mentioned, he adds,—“and every state not so governed, *or in which a body of men representing the people make not an essential part of the Legislature,* is in slavery.”* It is to that part of this paragraph, which is printed in *Italics*, that I crave attention. In the definition immediately preceding, he makes the essence of a free state to consist—in its *being GOVERNED or GUIDED by the WILL of a body of men representing the people*; here he supposes it sufficient, if *such a body make only an ESSENTIAL PART of the Legislature*. These representations are certainly very materially different: according to the former, the state would be under the supreme government of that body; according to the latter, it would be *equally* under that of *others*. In short; Government—by the will of an assembly of Representatives of the people,—or by a Legislative, of which such a Representative is only an essential part,—are matters much too distinct both in theory and practice to be thus changed upon us. But it is strikingly evident, that this unnatural period serves no other end but to introduce as unnatural a compliment, though a true panegyric, on the essential

* See page 11.

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tial principles of our excellent British Constitution. I mean the following.

“ In order,” says he, “ to form the most
“ perfect constitution of government, there
“ may be the best reasons for joining to such
“ a body of representatives, an *Hereditary Council*,
“ consisting of men of the first rank in the
“ state, with a *Supreme executive Magistrate*, at
“ the head of all. This will form useful checks
“ in a legislature; and contribute to give it vi-
“ gour, union, and dispatch, without infring-
“ ing liberty: for as long as that part of go-
“ vernment which represents the people has a
“ fair representation, and also has a negative
“ on all public measures, together with the sole
“ power of imposing taxes and originating sup-
“ plies; the essentials of liberty will be pre-
“ served.” * This passage is certainly a very
extraordinary one in the connection in which it
stands, and contrasted with the fundamental
articles of his system. Well, Sir! I heartily
agree with you, in what you say of such a
mixed form of government, and that it bids
exceedingly fair for a good and just administra-
tion,—and that the essentials of LIBERTY are
preserved by it; but I maintain that it is di-
rectly

* See page 12.

rectly in the teeth of your immediately preceding definition, and that the *essentials* of CIVIL LIBERTY, as defined and required by you, are wanting in such a constitution. Let the judgment rest with the impartial public.*

In the very same page, which contains the paragraph last quoted, there is another as extraordinary in its kind. It is this;—"Of such Liberty as I have now described it is impossible there should be an excess. Government is an institution for the benefit of the people governed, which they have power to model as they please; and to say, that they can have too much of this power is to say, that there ought to be a power in the state superior to that which gives it being, and from which all jurisdiction in it is derived." †

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What

* The Doctor's own words are, that *the supreme legislative authority in an empire OUGHT to exist NO WHERE except in SUCH a SENATE or body of Delegates as he had before described to be the only adequate Representatives of the people: he adds,—“that the fundamental principles of LIBERTY necessarily require it,”* page 28. This needs no comment. And yet he allows, page 46,—“*that a government by KING, LORDS, and COMMONS, is the PERFECTION of Government, when the Commons are a just representation of the people.*”

† See page 12.

What LIBERTY had the author been *describing*? No other than such as consists in GOVERNMENT by the people or its adequate representatives. This notion is here shifted for that of the people's power of MODELLING the government as they please.—Things that every body must evidently perceive to be essentially different! The whole passage therefore is inconsistent and totally fails in its professed intent: for the thing to be proved was, that the people can not have an excess of the first sort of Liberty;—whereas the position actually proved is, that they can not have too much of the latter.

One of the most remarkable circumstances that come within the line of this section, is Doctor PRICE'S immediate application of his principles to the “*authority of ONE COUNTRY over ANOTHER,*” with which he thus begins.

“From the nature and principles of CIVIL LIBERTY, as they have been now explained, it is an immediate and necessary inference, that no one community can have any power over the property or legislation of another community, that is not incorporated with it by a just and adequate representation.—Then only, it has been shewn, is a state free, when it
“ is

" is governed by its *own will*. But a country
 " that is subject to the legislature of another
 " country, in which it has no voice and over
 " which it has no controul, can not be said to
 " be governed by its own will. Such a coun-
 " try therefore is in a state of slavery. And
 " it deserves to be particularly considered, that
 " such a slavery is worse, on several accounts,
 " than any slavery of private men to one ano-
 " ther, or of kingdoms to despots within them-
 " selves." *—This sentiment is further pur-
 sued and confirmed in several consequent pages,
 and is then applied to invalidate the authority
 claimed by Great Britain over the American
 Colonies. I beg leave to suggest the following
 observations. 1st, It is evident, that the *im-*
mediate and *natural* inference from the princi-
 ples of Civil Liberty laid down by Doctor
 PRICE is much more *general* than what he here
 states: the *immediate* inference is,—that *no per-*
son or persons can have any power over the pro-
 perty or actions of *any other persons whatever*,
 who are not incorporated with them by a just
 and adequate representation:—and this then
 being an universal proposition, it is equally true
 in regard to *states* and *societies* as in respect of
individuals. 2^{dly}, If the Doctor wanted nothing
 S. 2 more

* See page 19.

more than to impugn the authority of *one* country over *another*, it seems as if that might have been done upon more evident and less disputable principles. But *3dly*, nothing is more palpable, than that the application of his principles to the American controversy would have been more adequate, and much less disputable, upon the footing of the *general* inference, than by embarrassing it in the manner he has done with the hypothesis of the Colonies being *another community*: for *if* no persons can have any lawful legislative authority over others not incorporated with them by the adequate representation he describes, it is an *undeniable* consequence,—that the claims of the British Parliament over the Colonies are *unjust* and *tyrannical*. This obvious and natural view of the subject could not, without some particular bias, escape so clear a head as Doctor PRICE'S: and the circumstance of the Colonies being a *distinct* community from Great Britain might have been called in to aid and enforce the argument, with just as much advantage at least as it is at present. What therefore could bias the Doctor to proceed in a manner so unnatural, incorrect, and so apparently disadvantageous to the cause he was pleading, I leave to the discernment of judicious readers. Certain it is, that he has there-

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by embarrassed his main argument with a disputable, I think a false, hypothesis, and, what is more to the present purpose to remark,—has cast a sort of a veil over the extent and tendency of his principles of Civil Liberty and Government, which it was proper to take off. Indeed the shyness, backwardness, and qualifying terms, with which, at the end of his *third* section, he just acknowledges—that *immediate, universal, and fruitful* inference before-mentioned—seems to me exceedingly remarkable. He observes, that there is a considerable difference of situation between *distinct communities*, who have little or no reciprocation of interests, and *different classes of men*, in *one and the same community*; and thence infers,—“ that
 “ a constitution of government consistent with
 “ Liberty in one of these situations may be
 “ entirely inconsistent with it in the other; for
 “ that, although *even in the last of these situations*
 “ *no one part ought to govern the rest, and there*
 “ *ought to be a fair and equal representation of all*
 “ *that are governed, so that as far as this is want-*
 “ *ing in any government, it deviates from the prin-*
 “ *ciples of Liberty, and becomes unjust and oppres-*
 “ *sive*:—yet all this holds with unspeakably
 “ more force in the circumstances of different
 “ communities. The government of a part in
 “ this

“this case becomes *complete tyranny*; and sub-
 “jection to it becomes *complete slavery*.”*

DOCTOR PRICE, we see, acknowledges here the true extent of his principles, to wit, *that no one part of a people ought to govern the rest, and that such a government is unjust and oppressive*;—but it is not without comparatively qualifying it with the observation, “that this holds with *un-
 “speakably more force* in regard to different com-
 “munities, and that the government of a part
 “in this case becomes *complete tyranny*, and
 “subjection to it *complete slavery*.” I must beg leave to remark, that this assertion disagrees with the Doctor’s principles, at the same time that it conveys a very wrong idea of them. For according to his theory and principles, it is *equally* contradictory to LIBERTY, *equally complete* TYRANNY in the government, and *equally complete* SLAVERY in the governed, for *any part of a people to rule over the rest*, as it is for *one community to govern another*. The administration may perhaps be likely to be more oppressive in the latter case than in the former;—but both the *constitutions* of government are *equally* and in *the same degree*, according to his principles, *completely contradictory* to CIVIL LIBERTY. I
 appeal

* See page 27.

appeal to the impartial reader and the preceding *Sections*.

In order to complete the clear discovery of what Doctor PRICE seems at least to keep too much out of sight,—I can not hit upon a more fair and perspicuous method, than the transcribing the following passage from his book, with no other alteration, than applying generally to *all persons not incorporated or consolidated together by an adequate representation*, what he there solely applies to *different states*; an application which his principles and explicit acknowledgements indubitably warrant: the words inserted within crotchets are the only alterations, and I have given those for which they are substituted in the margin.

“It may be asked,—*Are there not causes by which [persons*] may acquire a rightful authority over [other persons †], though not consolidated by an adequate representation?*—I answer, that there are no such causes.—All the causes to which such an effect *can* be ascribed are *CONQUEST, COMPACT, or OBLIGATIONS CONFERRED.*” What he says about the first and the last of these causes is nothing to the present purpose:

* one state

† another

purpose: upon that of COMPACT he delivers his sentiments in the following manner.—“Neither can any [person*] acquire such an authority over other [persons†] in virtue of any compacts or cessions. This is a case, in which compacts are not binding. Civil Liberty is, in this respect, on the same footing with Religious Liberty. As no people can lawfully surrender their Religious Liberty, by giving up their right of judging for themselves in religion, or by allowing any human beings to prescribe to them what faith they shall embrace, or what mode of worship they shall practise; so neither can any civil societies lawfully surrender their Civil Liberty, by giving up to any [person or persons‡] their power of legislating for themselves and disposing their property. Such a cession, being inconsistent with the unalienable rights of human nature, would either not bind at all, or bind only the individuals who made it. This is a blessing, which no one generation of men can give up for another; and which, when lost, a people have always a right to resume. Had our ancestors in this country been so mad as to have subjected themselves

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* state † states

‡ extraneous jurisdiction.

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“ to any [person or persons, others than the
“ adequate representatives of the people *], we
“ could not have been under any obligation to
“ continue in such a state. And all the nations
“ now in the world who, in consequence of the
“ tameness and folly of their predecessors, are
“ subject to [*such an*] arbitrary power, have a
“ right to emancipate themselves as soon as
“ they can.” †

This passage contains a precise and true view of the author's leading principles,—and as such I have given it due consideration in some of the preceding *Sections*. It needs therefore here no further comment or antidote. I intend it only to support my concluding observation, which is,—that Doctor PRICE'S Theory is by no means *merely speculative*. It is evident, as well from this passage, as from the whole tenor of his principles and reasoning, that he maintains the following practical sentiment; viz. Every people not governed, either by the Ma-
T jority

* *foreign community*

† See page 25, 26. The Doctor also acknowledges *implicitly*, page 90, and *expressly*, page 100 in the note,—that his principles extend to deny the authority of *all people, not united and incorporated together by an equal representation, over one another.*

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jority of the community, or by an assembly of Representatives chosen by, subject to the instructions of, and accountable to such a majority, is under an *unjust* Government and in *abject Slavery*,—and has a right to destroy that government and emancipate themselves as soon as they can. According to his views, such an emancipation, though a civil war be necessary to effect it, is the noblest cause in which mankind can be engaged. Now if the foregoing observations have evinced, as I trust they have, that notwithstanding any thing he has alledged, other constitutions of government are equally lawful and even more eligible than his,—may I not then justly conclude, that his theory is not only repugnant to truth, but also loosens the bonds of just civil Government, and of our own excellent constitution? This, with some other similar imputations on its nature and tendency in *page 3* and *64*, will, I presume, be found sufficiently warranted by the preceding *Sections*. Far be it from me, however, to charge them on any ill will or intentions of the respectable writer:—to *ERROR all*, and *nought* to *MALICE*, I impute; dealing in this respect as I would wish to be dealt by. But whether his sentiments be true or false, it appears they are pregnant with the most serious and important consequences

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consequences to society,—especially in the application of them to the established Constitution of this happy Nation; * and therefore deserve the decent, candid, and rational opposition of those citizens who think them erroneous.

* The Doctor's own application of them to this purpose, *page 10*, is too clear to be mistaken.

F I N I S.

