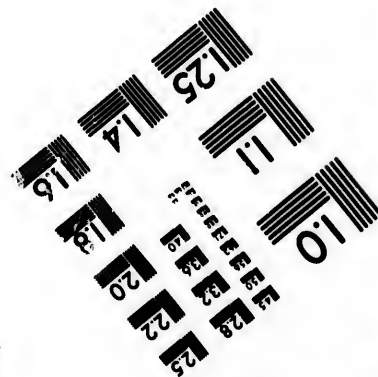
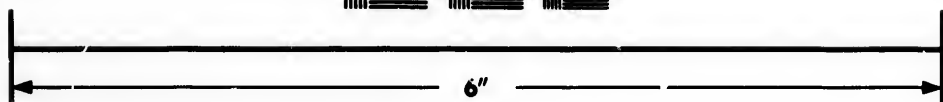
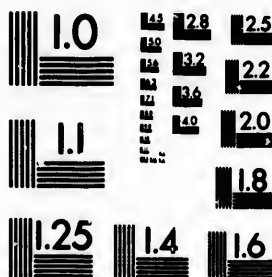


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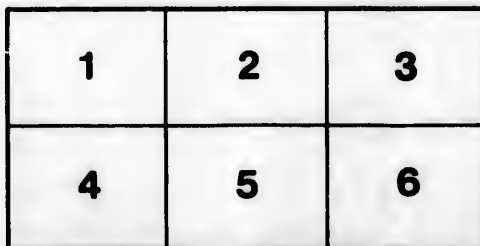
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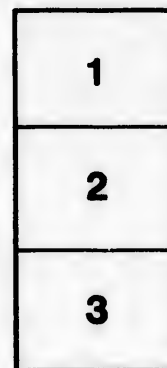
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IN
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**A N
A R G U M E N T**

**I N
DEFENCE OF THE EXCLUSIVE RIGHT
CLAIMED BY THE COLONIES TO TAX THEMSELVES;**

**WITH
A REVIEW OF THE LAWS OF ENGLAND;
RELATIVE TO
REPRESENTATION AND TAXATION:**

**TO WHICH IS ADDED,
AN ACCOUNT OF THE RISE OF THE COLONIES;**

**AND THE
Manner in which the rights of the subjects within
the realm were communicated to those that
went to America, with the exercise of
those rights from their first settlement
to the present time.**

L O N D O N :

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MDCCLXXIV.**

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ARGUMENT in DEFENCE
OF THE
RIGHTS of the COLONIES:

I N T R O D U C T I O N .

THE united opposition given by the Colonies, to the act of the 5th of his present Majesty, *for granting stamp duties in America*, is fresh in every one's memory: and the weight of authorities for and against that act, and the arguments that prevailed in obtaining its repeal, are so well known as to make it unnecessary to repeat them.

The repeal of the stamp act was followed by that declaring the dependency of his Majesty's dominions in *America* upon the crown and parliament of *Great Britain*.

B

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And in the next sessions (1767) the act passed for granting duties on goods imported into the colonies. The reluctance they discovered in receiving any of the articles upon which the duties were laid, produced in 1770, an act to repeal the duty on such as were of the manufacture of Great Britain, setting forth "that the said duties in their nature tended to the prejudice of the British manufactures, and therefore contrary to the true principles of commerce" But the duty on tea amongst other articles was continued.—In the last session the act passed for empowering the commissioners of the Treasury to grant licences to the *East India company* to export tea duty free. This produced the consignment of cargoes to the agents of the company at the principal ports in America.

The resolution of the colonies against its being received amongst them, appears to have been uniform; and the accounts of these resolutions were soon followed by advices of the execution of them—By resisting the landing of the tea, as subject to a duty to be collected from the people without the consent of their legal representations.

The

The tea once landed and delivered to those who were appointed to receive it, the payment of the duty followed of course.—In the sale of the tea the duty would have been included in the price, and the consumption of it by some part of the people unavoidable.

The sale and voluntary purchase of an article thus clothed with the duty, naturally created an apprehension, that the act of a few might afterwards be interpreted into the consent of the whole, and involve the question of right to tax themselves in greater difficulty:

Under the influence of these motives, an act of violence was committed at Boston on the property of the India company;—the cargo of tea consigned to that port was destroyed. And an act of parliament is now made to prohibit the landing or shipping any kind of goods in the harbour of Boston.

All the accounts received from the chief towns in America, give sufficient ground to believe, that the leading men throughout the colonies, are very much united in their resolutions to oppose the collecting of duties thus laid upon

them. And from the uniformity of the measures they have hitherto taken, it is to be expected, that the conduct of the principal inhabitants in all the provinces will continue to be united in maintaining what they consider to be their right. And upon the execution of the act against Boston, the consequences are *so probable*, that he who would wish to see them avoided, may be pardoned the presumption of saying *what they are likely to be*.

An act of parliament for suspending the trade of Bristol, Liverpool, Hull, or Newcastle, the day it took place all the numerous branches depending on shipping would be at a stand, and the people belonging to them of course unemployed. Artificers in any country are seldom in circumstances to live long without the wages due to their labour, and very soon after employment fails them in one town they must go to another. Thus will it be at Boston, as soon as its trade is shut out of the port, necessity will enter the habitations of the labouring people.— And compelled by it, they must take their wives and children in their hands, and wander from home in search of work and bread. Wherever they go they will awaken the compassion due to innocent

innocent victims; for it will be said, What has all these poor men done that they should be thus punished? And were the leading men amongst them totally silent, the very sight of these sufferers under an act of Parliament, will of itself be sufficient to destroy the people's confidence in the justice of the British legislature, and when confidence is dead, amity cannot live, and who shall yield first will be the question.

The impossibility of preventing consequences flowing from measures, makes the first approaches towards extremity matter of the most serious concern to every man that wishes well to his country, or his fellow subjects in America. Conscious of more zeal than ability I therefore catch the opportunity of appealing to men's candour whilst their reason, that ray of the Divinity within them, is uninfluenced by prejudice, unclouded by animosity,

In this interval I trust every man will allow himself to suppose, that by the *English* constitution there may be some medium between the absolute obedience in the colonies to be taxed by parliament, and their total independence on the parent state from which they are descended,

and

and in order to discover if any such medium does exist between the two extremes, it certainly is not sufficient to look no farther for it, than to a declaratory act or two made long after the original settlement of the colonies. In the investigation of any question, it is surely necessary not to allow our enquiries to rest on any thing short of the first foundation, and whenever the traces thereof appear in any degree defective, then to descend to the very ground upon which the foundation itself was intended to be laid. This ground is the *English constitution*, out of this did the colonies spring, and those that would wish to form a true judgment of the nature of their rights, will not be satisfied in a matter of so much importance, to take their leading principles upon trust and by hearsay, but will for themselves examine the evidence on which they depend.

The course that my inquiries has led me, was first to review the nature of the *English* constitution, as the provision made by it for the protection of our rights, and the security of our property, cannot be denied to our fellow subjects in *America*, they being the sons of our common forefathers,

forefathers, to whom these privileges were granted.

Gentlemen that are familiar with the authorities I shall name, will pass them over, and excuse me for stating them at large, as there may be others who think themselves interested in forming a judgment on the present question, who would wish to have the very words of these authorities before them. To their consideration I shall first present what is said by *Baron Montesquieu* on

THE CONSTITUTION OF ENGLAND.

“ IN a country of liberty, every man who is supposed a free agent, ought to be his own governor; the legislative power should reside in the whole body of the people. But since this is impossible in large states, and in small ones is subject to many inconveniencies; it is fit the people should do by their representatives what they cannot transact by themselves.”

“ The inhabitants of a particular town are much better acquainted with its wants and interests, than with those of other places; and are better

better judges of the capacity of their neighbours, than of that of the rest of their countrymen. The members therefore of the legislature should not be chosen from the general body of the nation ; but it is proper that in every considerable place, a representative should be elected by the inhabitants."

"The great advantage of representatives is their capacity of discussing public affairs. For this the collective body are extremely unfit, which is one of the chief inconveniencies of a democracy."

"It is not at all necessary that the representatives who have received a general instruction from their constituents, should wait to be directed on each particular affair, as is practised in the diets of Germany. True it is, that by this way of proceeding, the speeches of the deputies might with greater propriety be called the voice of the nation ; but on the other hand, this would occasion infinite delays ; would give each deputy a power of controlling the assembly ; and, on the most urgent and pressing occasions, the wheels of government might be stopped by the caprice of a single person."

" When

“ When the deputies, as Mr. Sidney well observes, represents a body of people, as in Holland, they ought to be accountable to their constituents; but it is a different thing in England, where they are deputed by boroughs.”

“ All the inhabitants of the several districts ought to have a right of voting at the election of a representative, except such as are in so mean a situation as to be deemed to have no will of their own.”

“ One great fault there was in most of the ancient republicks, that the people had a right to active resolutions, such as required some execution, a thing of which they are absolutely incapable. They ought to have no share in the government but for the chusing of representatives, which is within their reach. For though few can tell the exact degree of men's capacities, yet there are none but are capable of knowing in general, whether the person they chuse is better qualified than most of his neighbours.”

“ Neither ought the representative body to be chosen for the executive part of government, for which it is not so fit, but for the executing
of

of laws, or to see whether the laws in being are duly executed; a thing suited to their abilities, and which none indeed but themselves can properly perform."

"In such a state there are always persons distinguished by their birth, riches, or honors; but were they to be confounded with the common people, and have only the weight of a single vote like the rest, the common liberty would be their slavery, and they would have no interest in supporting it, as most of the popular resolutions would be against them. The share they have therefore in the legislature ought to be proportioned to their other advantages in the state; which happens only when they form a body that has a right to check the licentiousness of the people, as the people have a right to oppose any encroachments of theirs."

"The legislative power is therefore committed to the body of the nobles, and to that which represents the people, each having their assemblies and deliberations apart, each their separate views and interests."

"The

“The body of the nobility ought to be hereditary. In the first place it is so in its own nature; and in the next there must be a considerable interest to preserve its privileges, privileges that in themselves are obnoxious to popular envy, and of course in a free state are always in danger.”

“But as an hereditary power might be tempted to pursue its own particular interests, and forget those of the people, it is proper that where a singular advantage may be gained by corrupting the nobility, as in the laws relating to the supplies, they should have no other share in the legislation, than the power of rejecting, and not that of resolving.”

“By the power of resolving, I mean their right of ordaining by their own authority, or of amending what has been ordained by others. By the power of rejecting, I would be understood to mean the right of annulling a resolution taken by another.”

“The executive power ought to be in the hands of a monarch, because this branch of government, having need of dispatch, is better administered

administered by one than by many: On the other hand, what ever depends on the legislative power, is oftentimes better regulated by many than by a single person."

"But if there were no monarch, and the executive power should be committed to a certain number of persons selected from the legislative body, there would be an end then of liberty; by reason the two powers would be united, as the same persons would sometimes possess, and would be always able to possess, a share in both."

"Were the legislative body to be a considerable time without meeting, this would likewise put an end to liberty. For of two things one would naturally follow, either that there would be no longer any legislative resolutions, and then the state would fall into anarchy; or that these resolutions would be taken by the executive power, which would render it absolute."

"It would be needless for the legislative body to continue always assembled. This would be troublesome to the representatives, and moreover would cut out too much work for the executive power,

power, so as to take off its attention to its office, and oblige it to think only of defending its own prerogatives, and the right it has to execute."

"Again, were the legislative body to be always assembled, it might happen to be kept up only by filling the places of the deceased members with new representatives; and in that case if the legislative body were once corrupted, the evil would be past all remedy. When different legislative bodies succeed one another, the people who have a bad opinion of that which is actually sitting, may reasonably entertain some hopes of the next: but were it to be always the same body, the people upon seeing it once corrupted, would no longer expect any good from its laws; and of course they would either become desperate or fall into a state of indolence."

"The legislative body should not meet of itself. For a body is supposed to have no will but when it is met; and besides, were it not to meet unanimously, it would be impossible to determine which was really the legislative body; the part assembled, or the other. And if it had a right to prorogue itself, it might happen never

to

to be prorogued; which would be extremely dangerous in case it should ever attempt to encroach on the executive power. Besides, there are seasons, some more proper than others, for assembling the legislative body: it is fit therefore that the executive power should regulate the time of meeting, as well as the duration of those assemblies, according to the circumstances and exigencies of state known to itself."

"Were the executive power not to have a right of restraining the encroachments of the legislative body, the latter would become despotic; for as it might arrogate to itself what authority it pleased, it would soon destroy all the other powers."

"But it is not proper, on the other hand, that the legislative power should have a right to stay the executive. For as the execution has its natural limits it is useless to confine it; besides, the executive power is generally employed in momentary operations. The power therefore of the Roman tribunes was faulty, as it put a stop not only to the legislation, but likewise to the executive part of government; which was attended with infinite mischiefs."

"But

“ But if the legislative power in a free state, has no right to stay the executive, it has a right, and ought to have the means of examining in what manner its laws have been executed.”

“ But whatever may be the issue of that examination, the legislative body ought not to have a power of arraigning the person, nor of course the conduct of him who is intrusted with the executive power. His person should be sacred, because as it is necessary for the good of the state to prevent the legislative body from rendering themselves arbitrary, the moment he is accused or tried, there is an end of liberty.”

“ In this case, the state would be no longer a monarchy, but a kind of a republic, though not a free government. But as the person intrusted with the executive power cannot abuse it without bad counsellors, and such as hate the laws as ministers, though the laws protect them as subjects, those men may be examined and punished.”

“ Though in general the judiciary power ought not to be united with any part of the legislative, yet this is liable to three exceptions, founded

founded on the particular interest of the party accused."

"The great are always obnoxious to popular envy; and were they to be judged by the people; they might be in danger from their judges; and would moreover be deprived of the privilege which the meanest subject is possessed of in a free state, of being tried by his peers. The nobility, for this reason, ought not to be cited before the ordinary courts of judicature, but before that part of the legislature which is composed of their own body."

"It is possible that the law, which is clear-sighted in one sense, and blind in another, might in some cases, be too severe. But as we have already observed, the national judges are no more than the mouth that pronounces the words of the law, mere passive beings, incapable of moderating either its force or rigor. That part therefore of the legislative body, which we have just now observed to be a necessary tribunal on another occasion; is also a necessary tribunal in this; it belongs to its supreme authority to moderate the law in favour of the law itself, by mitigating the sentence."

"It

“ It might also happen that a subject intrusted with the administration of public affairs, may infringe the rights of the people, and be guilty of crimes which the ordinary magistrates either could not, or would not punish. But in general, the legislative power cannot try causes; and much less can it try this particular case, where it represents the party aggrieved, which is the people. It can only therefore impeach. But before what court shall it bring its impeachment; must it go and demean itself before the ordinary tribunals which are its inferiors, and being composed moreover of men who are chosen from the people as well as itself, will naturally be swayed by the authority of so powerful an accuser? No: in order to preserve the dignity of the people, and the security of the subject, the legislative part which represents the people, must bring in its charge before the legislative part which represents the nobility, who have neither the same interests, nor the same passions.”

“ Here is an advantage which this government has over most of the ancient republics, where this abuse prevailed, that the people were at the same time both judge and accuser.”

“ The

“ The executive power, pursuant to what has been already said, ought to have a share in the legislature by the power of rejecting, otherwise it would soon be stripped of its prerogative. But should the legislative power usurp a share of the executive, the latter would be equally undone.”

“ If the prince were to have a part in the legislature by the power of resolving, liberty would be lost. But as it is necessary he should have a share in the legislature for the support of his own prerogative, this share must consist in the power of rejecting.”

“ The change of government at Rome was owing to this, that neither the senate who had one part of the executive power, nor the magistrates who were entrusted with the other, had the right of rejecting, which was entirely lodged in the people.”

“ Here then is the fundamental constitution of the government we are treating of. The legislative body being composed of two parts, they check one another by the mutual privilege of rejecting. They are both restrained by the executive

tive

five power, as the executive is by the legislative.”

“ These three powers should naturally form a state of repose or inaction. But as there is a necessity for movement in the course of human affairs, they are forced to move, but still in concert.”

“ As the executive power has no other part in the legislative, than the privilege of rejecting, it can have no share in the public debates. It is not even necessary that it should propose, because as it may always disapprove of the resolutions that shall be taken, it may likewise reject the decisions on those proposals which were made against its will.”

“ Were the executive power to determine the raising of public money, otherwise than by giving its consent, liberty would be at an end; because it would become legislative in the most important point of legislation.”

“ If the legislative power was to settle the subsidies, not from year to year, but for ever, it would run the risk of losing its liberty, because
the

the executive power would be no longer dependant; and when once it was possessed of such a perpetual right, it would be a matter of indifference, whether it held it of itself, or of another. The same may be said, if it should come to a resolution of intrusting, not an annual, but a perpetual command of the fleets and armies to the executive power."

" To prevent the executive power from being able to oppress, it is requisite that the armies with which it is intrusted, should consist of the people, and have the same spirit as the people, as was the case at Rome till the time of Marius. To obtain this end, there are only two ways, either that the persons employed in the army should have sufficient property to answer for their conduct to their fellow subjects, and be enlisted only for a year, as was customary at Rome: or if there should be a standing army composed chiefly of the most despicable part of the nation, the legislative power should have a right to disband them as soon as it pleased; the soldiers should live in common with the rest of the people; and no separate camp, barracks, or fortrefs should be suffered."

" When

“ When once an army is established, it ought not to depend immediately on the legislative, but on the executive power ; and this from the very nature of the thing, its business consisting more in action than deliberation.”

“ In perusing the admirable treatise of Tacitus on the manners of the Germans, we find it is from that nation the English have borrowed the idea of their political government. This beautiful system was invented first in the woods.”

“ As all human things have an end, the state we are speaking of will lose its liberty, will perish. Have not Rome, Sparta, and Carthage perished ? It will perish when the *legislative power* shall be more corrupt than the *executive*.” X

“ It is not my business to examine whether the English actually enjoy this liberty, or not, sufficient it is for my purpose to observe, that it is established by their laws.”

MONTESQUIEU'S *Spirit of Laws*, B. II. C. 6.

To this general account of the *English* constitution, I shall add what is said by Sir Edward Coke and Sir William Blackstone on

THE CONSTITUENT PARTS OF A PARLIAMENT.

According to Sir Edward Coke, " A parliament consists of the King's Majesty sitting there in his poitic capacity, and of the three estates of the realm; that is to say, 1. The lords spiritual; 2. The lords temporal; and 3. The commons elected by the shires or counties, cities, and boroughs, by force of the King's writs."

The sovereign, who is the head in his legislative capacity acts only for himself, and what is called the prerogative, and the lords meet in parliament for the security of their own rights. But the house of commons assemble in behalf of the whole of the people of the realm. And according to Sir William Blackstone, " The commons consist of all such men of any property in the kingdom, as have not seats in the house of lords; every one of which has a voice in parliament, either personally, or by his representatives. In a free state, every man who is supposed a free agent, ought to be, in some measure,

sure, his own governor; and therefore a branch at least of the legislative power should reside in the whole body of the people. And this power, when the territories of the state are small and its citizens easily known, should be exercised by the people in their aggregate or collective capacity."

"But in so large a state as ours is, this would be impossible; it is therefore very wisely contrived, that the people should do that by their representatives which it is impracticable to perform in person." *Commen. B. I. p. 158.*

To the preceding account of the English constitution and the constituent parts of a parliament, I shall add what is said by Sir William Blackstone on the liberties of Englishmen.

**THE LIBERTIES OF ENGLISHMEN PRIMARILY
CONSIST IN THE FREE ENJOYMENT OF PERSONAL
SECURITY, OF PERSONAL LIBERTY,
AND OF PRIVATE PROPERTY.**

"In these several articles consist the rights, or, as they are frequently termed, the liberties of Englishmen: Liberties more generally talked of
of

of than thoroughly understood, and yet highly necessary to be perfectly known and considered by every man of rank or property, lest his ignorance of the points whereon they are founded should hurry him into faction and licentiousness on the one hand, or a pusillanimous indifference and criminal submission on the other. And we have seen that these rights consist, primarily, in the free enjoyment of personal security, of personal liberty, and of private property, so long as these remain inviolate, the subject is perfectly free from every species of compulsive tyranny, and oppression must act in opposition to one or other of these rights, having no other object upon which it can possibly be employed. To preserve these from violation, it is necessary that the constitution of parliaments be supported in its full vigor; and limits, certainly known, be set to the royal prerogative. And, lastly, to vindicate these rights, when actually violated or attacked, the subjects of England are entitled, — in the first place, to the regular administration and free course of justice in the courts — of law; next to the right of petitioning the King and parliament for redress of grievances; and lastly, to the right of having and using arms for self preservation and defence.

And

And all these rights and liberties is our birth-right to enjoy entire, unless where the laws of our country have laid them under necessary restraints. Restraints in themselves so gentle and moderate, that no man of sense or probity would wish to see them slackened. For all of us have it in our choice to do every thing that a good man would desire to do; and are restrained from nothing, but what would be pernicious either to ourselves or our fellow citizens, so that this review of our situation may fully justify the observation of a learned French author, who indeed generally both thought and wrote in the spirit of genuine freedom, and who hath not scrupled to profess, even in the very bosom of his native country, that the English is the only nation in the world where political or civil liberty is the direct end of its constitution." Blackstone's Com. book I. p. 144.

To the preceding description of the constitution of *England*, the constituent parts of its parliament, and the general rights of the subject, I shall now add some of the laws that more immediately relate to the security of private property, taxation and the right of representation.

"AIDS GRANTED TO THE KING SHALL NOT BE
TAKEN FOR A CUSTOM."

"AND SHALL NOT BE RAISED BUT BY CONSENT."

Confirmation of the great charter 25 Edward I. chap. 5, and 6. A. D. 1297.

"And for so much as divers people of our realm are in fear, *that the aids and tasks which they have given to us* beforetime, towards our wars and other business, *of their own grant and good will* (howsoever they were made) might turn to a bondage to them and their heirs, because they might be at another time found in the rolls, and likewise for the prises taken throughout the realm by our ministers, and in our name, we have granted for us and our heirs, that we shall not draw such aids, tasks, nor prises into a custom, for any thing that hath been done heretofore, be it by roll or any other precedent that may be founden."

"Moreover we have granted for us and our heirs, as well to archbishops, bishops, abbots, priors, and other folks of holy church, as also to earls, barons, and to all the communalty of the land, that for no business from henceforth

we shall take such manner of aids, tasks, nor prises, *but by the common assent* of the realm, and for the common profit thereof, saving the ancient aids and prises due and accustomed."

"THE KING OR HIS HEIRS SHALL HAVE NO AID WITHOUT CONSENT OF PARLIAMENT."

"NOTHING SHALL BE PURVEY'D TO THE KING'S USE WITHOUT THE OWNER'S CONSENT."

34 Edward I. chap. 1 and 2. A. D. 1306.
And the confirmation of those rights by act of parliament 42 Edward III. chap. 1. A. D. 1368.

"No rillage or aid shall be taken or levied by us or our heirs in our realm, without the good will and assent of the archbishops, bishops, earls, barons, knights, burgessees, and other freemen of the land."

"No officer of ours, or of our heirs, shall take corn, leather, cattle, or any other goods, of any manner of person, without the good will and assent of the party to whom the goods belonged."

"No

" NO IMPOSITION SHALL BE SET UPON MER-
 CHANDISE WITHOUT ASSENT OF PARLIAMENT
 45 EDW. III. cap. 4. A. D. 1371.

" *Item.* It is accorded and established, that
 no imposition or charge shall be put upon
 woolls, woollfels, and leather, other than the
 custom and subsidy granted to the king, in no
 fort, without the assent of the parliament; and
 if any be, it shall be repealed and holden for
 none."

These among many more of the ancient
 statutes, show that nothing was to be taken by
 the King for the use of the public, either as a
 tax, a duty, or an imposition upon goods,
 without the consent of the subject or his
 representative.

But the three following acts show, that
 Wales and the two county palatines of Chester
 and Durham, had been liable to all pay-
 ments of rates and subsidies granted by par-
 liament, without having any representatives.
 But at the same time these acts shew this, they
 prove

prove what is of much more consequence—
 They prove it was the sense of the nation, that
 to be taxed and not represented was contrary to
 the right of every subject of the crown of
England; and therefore they made the right of
 representation as extensive as the power of tax-
 ation, that *the unjust distinction* between the
 King's subjects in one part of his dominions and
 another might be removed for ever.

“ AN ACT FOR ALLOWING KNIGHTS AND
 BURGESSES IN PARLIAMENT FOR THE SHIRES
 AND BOROUGHS IN WALES, IN ORDER TO
 REMOVE THE DISTINCTION AND DIVERSITY
 BETWEEN THE KING'S SUBJECTS OF THIS RE-
 ALM AND HIS SUBJECTS OF THE PRINCIPALITY
 OF WALES. 27 HEN. VIII. chap. 26 A. D.
 1535. and 34 and 35 HEN. VIII. cap. 26.
 sec. 110.

“ ALBEIT the dominion, principality and
 country of Wales justly and righteously is, and
 ever hath been incorporated, annexed, united,
 and subject to and under the imperial crown of
 of this realm, as a very member and joint of
 the same, wherefore the King's most royal Ma-
 jesty

jesty of meer droit, and very right, is very head, king, lord and ruler; yet notwithstanding, because that in the same country, principality, and dominion, divers rights, usages, laws and customs be far discrepant from the laws and customs of this realin, some rude and ignorant people have made *distinction and diversity* between the King's subjects of *this realm*, and his subjects of the said dominion and *principality of Wales*, whereby great discord, variance, debate, division, murmur and sedition hath grown between his said subjects."

" And to prevent the like in future, it is enacted by the authority aforesaid, That for this present parliament, and all other parliaments to be holden and kept for this realm, two knights shall be chosen and elected to the same parliament for the shire of Monmouth, and one burges for the burough of Monmouth, in like manner, form and order, as knights and burgeses of the parliament be elected and chosen in all other shires of this realm of England."

" And one knight shall be chosen and elected to the same parliaments for every of the shires within the said dominion of Wales."

" That

“ That all the King's subjects and residents in Wales shall find at all parliaments hereafter to be holden in England, knights for the shires, and citizens, and burgeses for the cities and towns to be named and chosen, and shall be charged and chargeable to all subsidies, and other charges to be granted by the commons of any of the said parliaments.”

“ AN ACT FOR MAKING OF KNIGHTS AND BURGESSES WITHIN THE COUNTY AND CITY OF CHESTER, FOR THE WANT OF WHICH THE INHABITANTS THEREOF HAD OFTEN TIMES BEEN GRIEVED WITH ACTS AND STATUTES MADE WITHIN THE COURT OF PARLIAMENT, DEROGATORY UNTO THE MOST ANCIENT LIBERTIES AND PRIVILEGES OF THE KING'S SUBJECTS INHABITING WITHIN THE SAID COUNTY PALATINE. 34 and 35 HEN. VIII. cap. 13. A. D. 1542-3.”

“ TO the King our sovereign lord, in most humble wise shewn unto your most excellent Majesty, the inhabitants of your Grace's county palatine of Chester, That whereas the said county palatine

palatine of Chester is and hath been always hitherto exempt, excluded and separated out and from your high court of parliament, to have any knights and burgesses within the said court; by reason whereof the said inhabitants have hitherto sustained manifold disherisons, losses and damages, as well in their lands, goods and bodies, as in the good, civil, and politic governance and maintenance of the commonwealth of their said country: and forasmuch as the said inhabitants have always hitherto been bound by the acts and statutes made and ordained by your said Highness, and your most noble progenitors, by authority of the said court, as far forth as other counties, cities, and burroughs have been, that have had their knights and burgesses within your said court of parliament, and yet have had neither knight nor burgess, the said inhabitants, for lack thereof, have been ostentimes touched and grieved with acts and statutes made within the said court, as well derogatory unto the most ancient jurisdictions, liberties, and privileges of your said county palatine, as prejudicial unto the commonwealth, quietness, rest, and peace of your Grace's most bounden subjects inhabiting within the same: For remedy whereof, the said county palatine of
 Chester

Chester shall have two knights for the said county palatine, and likewise two citizens to be burgeses for the city of Chester, to be elected and chosen in like manner as for any other county and city within this realm of England."

AN ACT TO ENABLE THE COUNTY PALATINE OF DURHAM TO SEND KNIGHTS AND BURGESSES TO SERVE IN PARLIAMENT; AS THEY HAD HITHERTO BEEN LIABLE TO PAY ALL RATES AND SUBSIDIES WITHOUT HAVING THE LIBERTY AND PRIVILEGE OF ELECTING AND SENDING REPRESENTATIVES TO PARLIAMENT:
25 Charles II. cap. 9. A. D. 1672."

WHEREAS the inhabitants of the county palatine of Durham have not hitherto had the liberty and privilege of electing and sending any knights and burgeses to the high court of parliament, although the inhabitants of the said county palatine are liable to all payments, rates, and subsidies granted by parliament, equally with the inhabitants of other counties, cities, and boroughs in this kingdom, who have their knights and burgeses in the parliament, and are therefore concerned equally with others the inhabi-

tants of this kingdom, to have knights and burgeses in the said high court of parliament of their own election, to represent the condition of their county, as the inhabitants of other counties, cities, and boroughs of this kingdom have."

By these acts we see what was the sense of the nation in the years 1535, 1542, and 1672. The two first are eighty years before, and the last is fifty years after the first settlement of *New England*. The rights of *all the subjects* by the more ancient statutes, are so fully explained and knit together in these as it is impossible ever to divide them.

The subjects under the Massachussets government having appeared as the head of all the other colonies in claiming their right to be taxed only by their own representatives, I shall therefore now confine the enquiry to this province, and present the reader with the shortest and best has fallen in my way, of the rise ~~vouchers that~~ and progress of that province is.

THE

THE FIRST FOUNDATION OF THE COLONY OF
NEW ENGLAND, LAID IN THE REIGN OF
QUEEN ELIZABETH IN 1495.

“THE violent proceedings of the bishops drove great numbers of the Brownists into Holland, where their leaders, M. Johnson, Mr. Smith, Mr. Ainsworth, Mr. Robinson, Mr. Jacob, and others were gone before hand, and with the leave of the States were erecting churches after their own model at Amsterdam, Arnheim, Middleburgh, Leyden, and other places. The church at Amsterdam had like to have been torn in pieces at first by intestine divisions, but afterwards flourished under a succession of pastors for above an hundred years. Mr. Robinson pastor of the church at Leyden, first struck out the congregational or independant form of church government, and at length part of this church transplanting themselves into America, laid the foundation of the noble colony of New-England.”

Neal's *History of the Puritans*, vol. I. p. 386.

The

THE FIRST SETTLEMENT IN NEW-ENGLAND IN
THE REIGN OF KING JAMES I. 1620.

“ AMONG the Brownists in Holland we have mentioned the reverend Mr. John Robinson of Leyden, the father of the independents, whose numerous congregation being on the decline, by their aged members dying off, and their children marrying into Dutch families, they consulted how to preserve church and their religion; and at length, after several solemn addresses to heaven for direction, the younger part of the congregation resolved to remove into some part of America, under the protection of the king of England, where they might enjoy the liberty of their consciences, and be capable of encouraging their friends and countrymen to follow them. Accordingly they sent over agents into England, who having obtained a patent from the crown, agreed with several merchants to become adventurers in the undertaking. Several of Mr. Robinson's congregation sold their estates, and made a common bank, with which they purchased a small ship of sixty tons, and hired another of one hundred and eighty. The agents failed

sailed into Holland with their own ship, to take in as many of the congregation as were willing to embark, while the other vessel was freighted with necessaries for the new plantation. All things being ready, Mr. Robinson observed a day of fasting and prayer with his congregation, and on the first of July the adventurers went from Leyden to Delfhaven, whither Mr. Robinson and the ancients of his congregation accompanied them; they continued together all night, and next morning, after mutual embraces, Mr. Robinson kneeled down on the sea shore, and with a fervent prayer committed them to the protection and blessing of heaven. The adventurers were about one hundred and twenty, who, having joined their other ship, sailed for New-England, August fifth, but one of their vessels proving leaky they left it, and embarked in one vessel, which arrived at Cape Cod, November the ninth, one thousand six hundred and twenty. Sad was the condition of these poor men, who had the winter before them, and no accommodations at land for their entertainment; most of them were in a weak and sickly condition with the voyage, but there was no remedy; they therefore manned their long-boat, and having coasted the shore, at length found a tolerable harbour,

harbour, where they landed their effects, and on the twenty-fifth of December began to build a store house, and some small cottages to preserve them from the weather. Their company was divided into nineteen families, each family having an allotment of land for lodging and gardens, in proportion to the number of persons of which it consisted; and to prevent disputes, the situation of each family was decided by lot. They agreed likewise upon some laws for the civil and military government, and having chosen a governor, they called the place of their settlement by the name of New Plymouth.

“Inexpressible were the hardships those new planters underwent the first winter; a sad mortality raged among them, occasioned by the fatigues of their late voyage, by the severity of the weather, and their want of necessaries. The country was full of woods and thickets; their poor cottages could not keep them warm, they had no physician, or wholesome food, so that within two or three months half their company was dead, and of them who remained alive, which were about fifty, not above six or seven at a time were capable of helping the rest; but as the spring came on they recovered, and having received
some

some fresh supplies from their friends in England, they maintained their stations, and laid the foundation of one of the noblest settlements in America, which from that time has proved an asylum for the protestant non-conformists, under all their oppressions."

NEAL'S *History*, vol. I. p. 490.

FIRST RISE OF THE MASSACHUSETTS-BAY COLONY IN NEW-ENGLAND IN 1629.

“ THE King's instructions and the violent measures of the prime minister, brought a great deal of business into the spiritual courts; one or other of the Puritan ministers was every week suspended or deprived, and their families driven to distress; nor was there any prospect of relief, the clouds gathering every day thicker over their heads, and threatening a violent storm. This put them upon projecting a farther settlement in New-England, where they might be delivered from the hands of their oppressors, and enjoy the free liberty of their consciences; which gave birth to a second grand colony in North-America, commonly known by the name of the Massachusetts-Bay. Several persons of quality and substance
about

about the city of London engaging in the design, obtained a charter, dated March the fourth, one thousand six hundred and twenty-eight-nine, wherein the gentlemen and merchants therein named, and all who should thereafter join them, were constituted a body corporate and politic, by the name of the governor and company of the Massachusetts-Bay in New-England. They were impowered to elect their own governor, deputy-governor and magistrates, and to make such laws as they should think fit for the good of the plantation, not repugnant to the laws of England."

"Free liberty of conscience was likewise granted to all who should settle in those parts, to worship God in their own way. The new planters being all Puritans, made their application to the reverend Mr. Higginson, a silenced minister of Leicestershire, and to Mr. Skelton another silenced minister of Lincolnshire, to be their chaplains, desiring them to engage as many of their friends as were willing to embark with them. The little fleet that went upon this expedition, consisted of six sail of transports, from four to twenty guns, with about three hundred and fifty passengers, men women and children.

They

They carried with them one hundred and fifteen head of cattle, as horses, mares, cows, &c. forty-one goats, six pieces of cannon for a fort, with muskets, pikes, drums, colours, and a large quantity of ammunition and provision. The fleet sailed May the eleventh one thousand six hundred and twenty-nine, and arrived the twenty-fourth of June following at a place called by the natives Neumkeak, but by the new planters Salem, which in the Hebrew language signifies peace."

"After this they chose Mr. Skelton their pastor, Mr. Higginson their teacher, and Mr. Houghton their ruling elder, who were separated to their several offices by the imposition of the hands of some of the brethren appointed by the church to that service. The first winter proved a fatal one to the infant colony, carrying off above one hundred of their company, and among the rest Mr. Houghton their elder, and Mr. Higginson their teacher, the latter of whom not being capable of undergoing the fatigues of a new settlement, fell into a hectic, and died in the forty-third year of his age. When Laud was at the head of church-affairs, Mr. Higginson then living at Leicester

was

was articulated against in the high commission, and expected every hour a sentence of perpetual imprisonment. This induced him to accept of an invitation to remove to New England, which cost him his life. Mr. Skelton the other minister was a Lincolnshire divine, who being silenced for non-conformity, accepted of a like invitation, and died of the hardships of the country August the second one thousand six hundred and thirty-four. From this small beginning is the Massachusetts province grown to the figure it now makes in the American world."

"The summer following the governor went over with a fresh recruit of two hundred, ministers, gentlemen, and others, who were forced out of their native country by the heat of the Laudean persecution."

MATHER and NEAL's *History of New England*,

THE NUMBER OF PLANTERS THAT WENT OVER
TO NEW-ENGLAND IN THE FIRST TWELVE
YEARS FROM 1629.

"WHEN it appeared that the planters could
subsist in their new settlement, great numbers of
their

their friends with their families flocked after them every summer. In the succeeding twelve years of archbishop Laud's administration, there went over about four thousand planters, who laid the foundation of several little towns and villages up and down the country, carrying over with them in materials, money, and cattle, &c. not less than to the value of one hundred and ninety-two thousand pounds, besides the merchandize intended for traffic with the Indians. Upon the whole, it has been computed, that the four settlements of New-England, *viz.* Plymouth, the Massachusetts-bay, Connecticut, and Newhaven, all which were accomplished before the beginning of the civil wars, drained England of five hundred thousand pounds in money, (a very great sum in those days :) and if the persecution of the Puritans had continued twelve years longer, it is thought that a fourth part of the riches of the kingdom would have passed out of it through this channel."

"The chief leaders of the people in these parts were the Puritan ministers, who being hunted from one diocese to another, at last chose this wilderness for their retreat, which has proved (through the over-ruling providence of God),

a great accession to the strength and commerce of these kingdoms.”

MATHER'S *History*, B. I. p. 17.

THE FIRST LEGISLATIVE BODY SETTLED BY THE
FREEMEN IN NEW ENGLAND IN 1634.

“ THE freemen were so increased, that it was impracticable to debate and determine matters in a body, it was besides unsafe, on account of the Indians, and prejudicial to their private affairs, to be so long absent from their families and business ; so that this representative body was a thing of necessity, but no provision had been made for it in their charter.”

“ Thus they settled the legislative body, which, except an alteration of the number of general courts which were soon reduced to two only in a year, and other not very material circumstances, continued the same as long as the charter lasted. This I suppose was the second house of representatives in any of the colonies. There was, as has been observed, no express provision for it in the charter ; they supposed the natural rights of Englishmen, reserved to them, implied it. In Virginia, a house of burgesses

met

met first in May one thousand six hundred and twenty. The government in every colony, like that of the colonies of old Rome, may be considered as the *effigies parva* of the mother state."

Mr. HUTCHINSON'S *History*, vol. I. p. 36, 37.

THE PROPORTION OF TAXATION ON THE SEVERAL PARTS OF THE COLONY OF MASSACHUSETTS-BAY, IN THE YEAR 1642.

"The growth of the several parts of the colony, at different periods, will be thought by some worth observing. In 1642 a tax of 800 l. was apportioned as follows: Hingham 20 l. Weymouth 14 l. Braintree 14 l. Dorchester 58 l. 10 s. Roxbury 50 l. Boston 120 l. Dedham 20 l. Concord 25 l. Watertown 55 l. Cambridge 67 l. 10 s. Charles-town 60 l. Salem 75 l. Lynn 45 l. Ipswich 82 l. Newbury 30 l. Salisbury 12 l. 10 s. Hampton 5 l. Rowley 15 l. Sudbury 15 l. Medford 10 l. Gloucester 6 l. 10 s.

Mr. HUTCHINSON'S *History*.

THE

THE CHARTER OF THE CITY OF LONDON FOR-
FEITED IN 1682 (BEING THE YEAR BEFORE
THE QUO WARRANTO WENT AGAINST THE
CHARTER OF MASSACHUSETTS-BAY.

[The charter of London was adjudged forfeit upon a long argument of the greatest lawyers in the nation. The Massachusetts was decreed forfeited upon default of appearance, which was required to be at Westminster before the notice arrived at Boston.]

While the Tories and high church clergy were ravaging the dissenters, the court was intent upon subverting the constitution, and getting the government of the city into their hands. June the twenty-fourth there was a contest about the election of sheriffs, which occasioned a considerable tumult. And when the election of a lord-mayor came on at Michaelmas, the citizens were again in an uproar, the lord mayor pretending a right to adjourn the court, while the sheriffs to whom the right belonged continued the poll till night; when the books were cast up, each party claimed the majority according to their respective books. The contest rose so high, that Sir Wil-

liam

liam Pritchard lord mayor, was afterwards arrested at the suit of Mr. Papillon and Dubois, and detained prisoner in Skinners-hall till midnight; but when the affair came to a trial, the election was vacated, Papillon and Dubois were imprisoned, and the leading men of the wing party, who had distinguished themselves in the contest, were fined in large sums of money, which made way for the loss of the charter."

"The court would have persuaded the common-council to make a voluntary surrender of it to the crown, to put an end to all contests for the future; but not being able to prevail, they resolved to condemn it by law; accordingly a quo warranto was issued out of the court of King's Bench, to see whether the charter had been duly observed, because the common-council in one of their addresses, had petitioned for the sitting of the parliament, and had taxed the prorogation as a delay of justice; and because they had laid taxes on their wharfs and markets, contrary to law. After trial upon these two points, the Chief Justice delivered it as the unanimous opinion of the court, that the liberties and franchises of the city of London had

had been forfeited, and might be seized into the king's hands, but judgment was not to be entered till the king's pleasure was further known: In the meantime the lord mayor and common-council, who are the representatives of the city, agreed to submit to the King's mercy, and sent a deputation to Windsor, June the eighteenth, one thousand six hundred and eighty-three, to beg pardon, which the King was pleased to grant, on condition that his majesty might have a negative on the choice of all the chief magistrates—that if his Majesty disapproved of their choice of a lord mayor, they should choose another within a week — And that if his Majesty disapproved their second choice, he should himself nominate a mayor for the year ensuing; and the like as to the sheriffs, aldermen, &c. When this was reported to the common-council, it was put to the vote, and upon a division, one hundred and four were for accepting the King's regulation, and eighty-six against it, but even these concessions continued no longer than a year. The charter of London being lost, the cities and corporations in general were prevailed with to deliver up their charters, and accept of such new ones as the court would grant, which

was

was the highest degree of perfidy and baseness, in those who were intrusted with them." *See*

Bp. BURNET'S *History*, p. 527. and the *London*

Gazette, No. 1835.

THE KING'S DECLARATION SENT WITH THE
 QUO WARRANTO AGAINST THE CHARTER OF
 THE COLONY OF MASSACHUSETTS BAY, ACCOM-
 PANIED WITH TWO HUNDRED COPIES OF THE
 PROCEEDINGS AGAINST THE CHARTER OF
 LONDON TO BE DISPERSED THROUGH THE PRO-
 VINCE. AND THE VOTE OF ADDRESS TO HIS
 MAJESTY UPON THE RECEIPT THEREOF, 15th
 November 1683.

“ UPON the agents of the colony receiving the final resolution of the court, their business was at an end. It was determined a quo warranto should go against the charter. The agents arrived at Boston the twenty-third of October, one thousand six hundred and eighty-three, and the same week the quo warranto arrived, and a declaration from the King, that if the colony, before prosecution, would make full submission and entire resignation to his pleasure, he would regulate their charter for his ser-

E

vise,

vice, and their good, and with no further altera-
 tions than should be necessary for the support of
 his government there. Two hundred copies of
 the proceedings against the charter of London
 were sent at the time, by advice of the privy
 council, to be dispersed through the province.
 The governor and major part of the assistants,
 despairing of any success from a defence, passed
 the following vote: 'The magistrates have voted,
 'that an humble address be sent to his Majesty,
 'by this ship, declaring that, upon a serious
 'consideration of his Majesty's gracious intima-
 'tions, in his former letters, and more particu-
 'larly in his late declaration, that his pleasure
 'and purpose is only to regulate our charter, in
 'such a manner as shall be for his service and
 'the good of this his colony, and without any
 'other alteration than what is necessary for the
 'support of his government here, we will not
 'presume to contend with his Majesty in a course
 'of law, but humbly lay ourselves at his Majesty's
 'feet, in a submission to his pleasure so declared;
 'and that we have resolved by the next opportu-
 'nity, to send our agents, impowered to receive
 'his Majesty's commands accordingly. And, for
 'saving a default for non-appearance upon the
 'return of the writ of quo warranto, that some
 meet,

' meet person or persons be appointed and im-
 ' powered, by letter of attorney, to appear and
 ' make defence, until our agents may make
 ' their appearance and submission, as above.
 ' The magistrates have passed this with reference
 ' to the consent of their brethren the deputies
 ' hereto.

Nov. 15. 1683. EDWARD RAWSON, *Sec.*

This lay in the house, under consideration, a
 fortnight, and was then passed upon as follows :

Nov. 30. 1683. ' The deputies *consent not,*
 ' but adhere to their former bills.'

WM. TORREY, *Cler.*

THE

THE VOTE OF THE HOUSE OF COMMONS THAT THE LATE PROSECUTION FOR TAKING AWAY CHARTERS WERE ILLEGAL, AND INCLUDE THE PLANTATIONS WITH THE CITIES, TWO UNIVERSITIES AND OTHER INCORPORATE BODIES, WHOSE CHARTERS HAD BEEN PROCEEDED AGAINST, BY QUO WARRANTO IN THE LATE REIGN, 1 WILLIAM III. 1688.

“ AT a committee of grievances, Martis 5, Martii 1688, resolved, *nem. con.* that it is the opinion of this committee, that the late prosecutions of quo warrantos against the cities, two universities, the towns corporate, boroughs and cinque ports, and the plantations, and the judgment thereupon, and the surrenders of charters, to the violation of their ancient rights, are illegal and grievances. By the house,

Resolved, that this house doth agree with the said committee in said resolve, and that the late prosecution of quo warrantos against the cities, two universities, the towns corporate, boroughs and cinque ports, and plantations, and judgment thereupon, and the surrenders of charters, to the violation of their ancient rights, are illegal and a grievance.”

AN ACCOUNT OF WHAT PASSED IN THE HOUSE OF COMMONS RELATIVE TO THE CHARTERS OF THE PLANTATIONS IMMEDIATELY AFTER THE REVOLUTION, AND THE AUTHORITY GIVEN BY KING WILLIAM TO THE COLONY OF MASSACHUSETTS TO EXERCISE GOVERNMENT ACCORDING TO THE OLD CHARTER UNTIL A NEW ONE WAS SETTLED:

“ THE house of commons voted the taking away the charters of the plantations to be a grievance, and a bill passed the house for restoring the charters, and the New-England charters was expressly mentioned; but whilst the bill lay in the house of lords, the parliament sooner than expected, was prorogued; the king going to Ireland. The king, from the beginning, discovered a design to reserve the appointment of the governor to himself: it was in vain, after losing this chance in parliament, to try for the restoration of the old charter. A new charter, with as many of the old privileges as could be obtained, was all that could be hoped for. In the mean time, application was made, for express power and authority to be granted to the colony to exercise

exercise government according to the old charter, until a new could be settled. This was obtained."

WILLIAM R.

" TRUSY and well beloved, we greet you well. Whereas we are informed by several addresses from the colony of the Massachusetts bay, and particularly by the address coming to us in the name of the governor and council and convention of the representatives of the people of the said colony, that they had joyfully received the notice of our happy accession to the throne of these kingdoms, and caused the proclamation thereof to be issued throughout the said territory, We have therefore thought fit hereby to signify our royal approbation of the same, and gracious acceptance of your readiness in performing that which was necessary, on your parts, for the preservation of the peace and quiet of our said colony. And whereas you give us to understand, that you have taken upon you the present care of the government, until you should receive our order therein; we do hereby authorize and empower you to continue, in our name, your care in the administration thereof, and preservation of the peace, till we shall have taken such resolutions
and

And given such directions for the more orderly settlement of the said government, as shall most conduce to our service, and the security and satisfaction of our subjects within that our colony. And so we bid you farewell. Given at our court in Whitehall, the 12th day of August 1689, in the first of our reign;

By his Majesty's command,
Colony of Massachusetts.

SHREWSBURY."

Mr. Hutchinson's *History*, v. I. p. 389.

THE POWER GIVEN BY CHARTER TO THE PROVINCE OF MASSACHUSETTS BAY, AND OBSERVATIONS ON THE DIFFERENCE BETWEEN THE NEW CHARTER GRANTED BY KING WILLIAM AND THE OLD ONE TAKEN AWAY IN 1683.

"THE governor, under the old charter, altho' he carried great porte, yet his share in the administration was little more than that of any one of the assistants. He had the power of calling the general court upon urgent occasions, so had the deputy governor or major part of the assistants, if the governor did not think fit to do it; but

but he could not adjourn, prorogue or dissolve the court, the vote of the major part of the whole court was necessary, he voted with the assistants, and if there was an equal vote, his vote was twice counted to make a casting vote, he gave commissions to civil and military officers, but this was merely a ministerial act; in which nothing was left to his discretion, all officers being elected by the general court. Under the new charter, there must be an annual meeting of the general court, on the last Wednesday in May, but the governor calls an assembly at any other time he thinks proper, and adjourns, prorogues and dissolves it at pleasure. *He has no vote in the legislature, and does not, or regularly should not, interest himself in matters in debate, in council, or in the house; but no act of government is valid without his consent. He has the appointment of all military officers, solely, and of all officers belonging to the courts of justice, with the consent of the council; other civil officers are elected by the two houses, and he has his negative; no money can issue out of the treasury but by his warrant, with the advice and consent of the council.*"

"The assistants and councillors, under the old charter, were annually elected by the votes of all the freemen of the colony; they were not only,

only, with the governor, one of the two branches of the legislature, but the supreme executive court in all civil and criminal causes, except in such cases where, by the laws, an appeal was allowed the general court. The new charter provides, that upon the last Wednesday in May annually, twenty eight councillors shall, by the general court or assembly, be newly chosen. At the first election it was made a question, whether, by the general court or assembly was intended the house of representatives only, or the whole three branches, and it is handed down to us, by tradition, that after sometime spent in messages and replies, the council for the former year gave up the point, and sent Major Whally, one of their number, to acquaint the house with it; but when he came to the door, he heard the speaker putting the question to the house, and finding they had conceded to the council, he returned without delivering his message; and a committee coming soon after from the house to bring up the vote, the council, by this accident, retained a privilege which they have been in the exercise of ever since; and, no doubt, it is in a great measure owing to this, that any great change in the council has been rarely effected, even when there have been very warm altercations between the two houses the preceding

preceding year. It is very difficult to form a second
 branch of legislature, analogous to the second
 branch in the British constitution. *The colonies*
are not ripe for hereditary honours, otherwise there
seems no more room for exception to them there,
than in Ireland. In the charter governments of
 Connecticut and Rhode Island, this branch is
 more dependant upon the people in general, than
 the house of representatives; the first being
 elected by the freemen in general, the last by the
 freemen of their several towns; and there have
 been instances, in those colonies, where the re-
 presentatives have had virtue enough to with-
 stand popular prejudices, when the council have
 not; in the royal governments, as they are called:
 the council can scarcely be considered as a dis-
 tinct branch; frequently they receive their ap-
 pointment from the recommendation of the
 governor; they are always liable to be suspended
 by him, and if it be without sufficient cause,
 the remoteness of the colonies from the place
 where redress is to be obtained, and the expence
 of soliciting it, are very often sufficient to dis-
 courage from applying for it. In the Massa-
 chussets, this branch is dependant both upon the
 governor and people, and we have seen, at dif-
 ferent times, the influence of the one or the other
 over

ever this branch, according to the degree of spirit and resolution which has respectively prevailed. We have seen instances also of councillors, who have had fortitude enough to resist an undue influence from either, and who from year to year have had violent opposition to their election. We have seen so many good men members, that I may not give the epithet to this branch which is sometimes used for the small boroughs in England. But we have often seen, that the most likely way to secure a seat for many years is to be of no importance, and therefore it must be pronounced defective. Neither in the Massachusetts, nor in the royal governments, do we meet with that glorious independance, which make the house of lords, the bulwark of the British constitution, and which has sometimes saved the liberties of the people from the threatned encroachments, and at other times put a stop to advances making upon the royal prerogative."

"The representatives, under the old charter, were elected by freemen only; under the new, every freeholder of forty shillings sterling a year is a voter, and so is every other inhabitant who has forty pounds sterling personal estate."

"The

“ The speaker of the house was at first elected and took his place without any notice to the governor; and for many years after the present charter, there was only the formality of notice, until disputes, upon other points with the governor, caused him to insist upon his right of negating the speaker, which the house was obliged, after a long struggle, to submit to.”

“ It was proposed that the members of the general court should, during the recess, consider of such laws as were necessary to be established; for the act reviving the colony laws was to continue in force no longer than until November, 1692.”

“ This was a work of great importance, and required the wisest heads, and ought to have been committed to select persons, upon a preconcerted plan, the whole of which each person should have kept in view; for want thereof the people of the province have been sufferers ever since; the construction of many laws have been doubtful and varying, it being impossible to reconcile the several parts to any general principal of law whatsoever; Besides, being passed
one

one after another, as they happened to be brought in, and sent to England for allowance, some were disapproved; others, which depended upon or had some connection with those which were disapproved, were allowed; whereas if one complete code or system had been prepared and sent to England, such alterations would have been proposed, as might finally have issued in a well digested consistent body of laws; and a temporary provision might have been made, until this perpetual rule should be settled. Seven years had passed, and four different acts had been sent, one after another to England, for establishing courts of justice, before the royal approbation could be obtained. *It was the practice of the administration then, and, it seems, at that time to have been well enough received in the province, to point out either in the order disallowing laws, or to the agent who presented them, the particular exceptions, and to propose such alterations as might render them acceptable, except in such cases where the law in all its parts was disapproved.*"

From Mr. Hutchinson's *History*, vol. I. p. 7.

“ NUMBER OF INHABITANTS IN NEW ENGLAND
AND ITS PRESENT CONSEQUENCE.

“ THE Massachusetts colony may be considered the parent of all the other colonies of New England. There was no importation of planters from England to any part of the continent, northward of Maryland, except to the Massachusetts, for more than fifty years after the colony began. In the first ten years, about twenty thousand souls had arrived in the Massachusetts. Since then, it is supposed more have gone from hence to England than have come from thence hither. Massachusetts Bay, New Hampshire, Connecticut, and Rhode Island, at this day, probably contain five hundred thousand souls. A surprising increase of subjects of the British crown.”

“ BARBADOS and the Leeward Islands owed very much of their growth to the supplies of lumber, horses and provisions, with which they were furnished, at the beginning of their settlements, from this colony, in as great plenty as they desired.”

“ The

“ The addition of wealth and power to Great Britian, in consequence of this first emigration of our ancestors, exceeds all expectation. *They left their native country with the strongest assurances that they and their posterity should enjoy the privileges of free natural born English subjects. May the wealth and power of Britain still increase in proportion to the increase of her colonies; may those privileges never be abused; may they be preserved inviolate to the latest posterity.*”

Preface to the 1st vol. of Mr. Hutchinson's *History of Massachusetts Bay*, published in 1760.

ARGUMENT

The following is a list of the names of the
 persons who have been appointed to the
 various offices of the Board of Directors
 of the Bank of the City of New York
 for the year ending on the 31st day of
 December, 1880.

THE BOARD OF DIRECTORS

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A R G U M E N T

F O R T H E

Right claimed by the Colonies:

THE whole matter in dispute between Great Britain and her colonies may be reduced to a single point—The right of taxation—The power of disposing of the property of all his Majesty's subjects in America.

Matter in dispute.

But before I enter upon this very important question, I shall take a short view of such parts of the foregoing authorities, as are most immediately connected with it:

The great end of men's uniting together, and putting themselves under government, is for the mutual preservation of their lives, liberties and estates.

The end of government and the duty of supporting it.

F

And

And, as governments cannot be supported without great charge, it is fit every one who enjoys his share of the protection, should pay out of his estate his proportion for the maintenance of it.

These are the words of a man to whom every subject of the laws of England at this day, is in no small degree indebted. Mr. Locke's knowledge of our constitution, his ability in the investigation of it, and his fortitude in defending it at the time that he did, against a torrent of opposite and powerful opinions, did, it must be universally allowed, highly contribute towards the re-establishment of the *English* constitution at the restoration. And if the subjects in any part of the king's dominions, mean by an opposition to taxes, to declare their unwillingness to bear their proportion of the charges of government, they will find nothing to support such a conduct in the opinions of Mr. Locke. If there is a man living under the protection of the English laws, and thinks he ought not to contribute his part to the administration of them, he must either be insensible of the advantage he enjoys, or be very unworthy of it. Those that will take the pains

to trace the progress of the English constitution,

by

by those sure landmarks the laws have erected for its perpetual support, and will carefully examine the wisdom of its contrivance, and the slow degrees by which it has arisen to its present excellence; they will then have too high an opinion of its worth, to be unwilling to contribute their proportion to maintain and uphold every part of a system, that has made such uncommon provision for the security of every temporal blessing men seem capable of enjoying. But in considering that part of our legislature that is composed of the commons, we should never forget the importance of the other branches of it, to the general security and welfare of the people:

Whoever imagines that the liberty of the subjects is to be promoted by degrading the dignity of their first magistrate, they have a discernment into the nature and excellence of our constitution, very different to that of Baron Montefquieu, who says his person should be sacred, to whom the executive power of the laws of *England* are committed, because it is necessary to prevent the legislative body from rendering themselves arbitrary, therefore the moment he is accused or tried there is an end of liberty. But it

A short
view of the
legislature

Of the
crown.

is not in the power even of this fine writer on our constitution, to make us think more highly of the office of our first Magistrate, than we must do of the justice and moderation of him that fills it.

At different periods in our history, our constitution has been in danger from very opposite quarters; sometimes a mistaken love of power in the crown, has made it attempt to bear down the other branches of the legislature; and at other times the people's part of the government have been erected into a tyranny over the heads of those they were intended to represent. But still the noble structure has risen superior to all the variety of dangers to which it has been exposed.

And that great and good being who alone can bring order out of confusion, has hitherto allowed our excellent system of laws, to secure to us liberty of conscience and the open exercise of our religion. He has raised us up a race of princes, who have uniformly filled the seats of justice with wise and good men; that we not only hold the security and protection of our persons and properties by the words of the laws, but they are also administered to our advantage.

And

And to bring down those blessings with increase upon our heads, we see a prince making the judges of the land independant of his crown, that free and uninfluenced the laws might reign alone. And we also see those judges as earnest in bringing the greatest men * within the reach of the law, as they are in extending its relief to the meanest †

Those that will attentively compare the powers vested in the crown by our constitution, with the use that publicly appears to be made of them in all the executive departments of the state, will find himself called upon by every motive of duty and gratitude, to pay the strongest marks of allegiance both to the person and office of that magistrate from whom those powers are derived.

And

* See debates on obtaining the act for preventing delays of justice by reason of privilege of parliament, In 1770.

† And in 1772, by the judgment of the Court of King's Bench, the laws were made to say to those that held poor Sommerset, the Negro—Loose him and let him go free.

For a few thoughts on the subject of *slavery*, see the conclusion.

The Lords.

And one cannot pass by the next part of our legislature, without likewise observing the high importance of which the constitution has made the Peers to the general welfare of the state. To this house is committed the most sacred charge of preserving the laws of the realm inviolable. It is their bulwark. In the persons of the peers we see the guardians of the people's rights: the constitution justly considering those worthy of the highest trust, who had the most to lose by its abuse: and they are united to the people by the strongest ties; their extensive property is pledged on the common safety of the people who alone can defend it. And the sentiments of public good that we so frequently hear delivered in this house, shews that it continues worthy of the confidence our ancestors has placed in it.

And it will ever remain the duty and interest of every good subject, to contribute upon all occasions his endeavours to support in their full exercise, the legal powers of the crown and the privileges of the peers, as essential to public liberty, and the general welfare of the state.

The royal and noble branches of our government may now be laid intirely out of the question, and our whole attention turned to the people's

part

part of the legislature. And we shall first enquire in what light it is considered by those that are allowed to be amongst the ablest writers and best judges of the *English* constitution.

This part of the legislative power should reside in *the whole body of the people*. But since this is impossible in large states, and in small ones subject to many inconveniences, it is fit *the people should do* by their representations what they cannot transact by themselves. * These are Baron Montesquieu's words. And according to Sir William Blackstone, † The commons consist of all such men of any property in the kingdom, as have not seats in the house of lords; *every one of which* has a voice in parliament, either personally, or by his representatives. In a free state, every man who is supposed a free agent, ought to be, in some measure, his own governor, and therefore a branch at least of the legislative power should reside *in the whole body of the people*. And this power, when the territories of the state are small, and its citizens easily known, should be exercised by the people in their aggregate or collective capacity.

The house of commons considered as the whole body of the people by the constitution.

But

* See p. 7.

† See p. 22.

“ But in so large a state as ours is, this would be impossible; it is therefore very wisely contrived, that the people should do that by their representatives which it is impracticable to perform in person.”

But still the constitution considers the representatives assembled in the name of the people, as the people themselves, and notwithstanding the necessity their numbers lay them under, to devolve their authority in the legislature on deputies, yet it alters not the design of the constitution, it still considers as the people, the representatives assembled in their name; and when they have done with the power of making laws, and are separated again; they are themselves subject to the laws they have made in common with the whole body of the people.

The colonies are excluded from any share in this design of the constitution.

Now see how this will apply to America; by allowing them the privileges of their fellow subjects within the realm, you put them in the same condition as if the colonies had existed at the time the constitution gave this branch of the legislature to the people at large, a principle in our constitution that never could have taken place, as it proceeds on a supposition that the
people

people were to assemble, and as this could not be, you make the constitution at its first outset, exclude every one of your fellow subjects in America, from any share in this great privilege granted in common to all the people.

But it is said this supposition in our constitution proceeds on an impossibility, it being the next degree as impossible for the people of *England* to assemble, as it would be for their fellow subjects in *America* to meet them in forming their common part of the legislature, and therefore it unavoidably follows, that the people devolve the share the constitution has given them in the legislature upon deputies. This being a difficulty naturally foreseen by the constitution, it is next to be enquired what provision is made against it?

The laws first secure the legislative right to *all the people*, and then with wisdom equal to its justice provides for the exercise of that right. All the people could not assemble, but all the people might have a voice in choosing representatives to meet the other branches of the legislature. It therefore intended that *all the inhabitants should have a right of voting at the election*

The constitution grants to *all the people*, the right of choosing representatives.

tion of representatives: that were not in so mean a situation as to be deemed to have no will of their own.* would they be any more obnoxious to the law than the rest of the people?

The commons consist of *all free men of any property* in the kingdom, as have not seats in the house of lords; *every one* of which has a voice in parliament either personally or by his representative.†

The lawful power of making laws to command whole politic societies of men, belonging to properly to the same *intire societies*, that for any prince or potentate of what kind soever upon earth, to exercise the same himself, and not by express commission immediately and personally received from God, or *else by authority derived at the first from their consent, upon whose persons they impose laws*, it is no better than mere tyranny. *Laws they are not therefore which public approbation hath not made so.‡*

The

* Montesquieu on the English constitution p. 9.

† Sir Wm Blackstone on parliaments, p. 22.

‡ Hooker's Eccl. Pol. l. i. sect. 10.

The liberties of the people being the direct end of our laws, the power of making them implies, the consent of the people actually given; but the collective body being too numerous to meet together for this purpose, the constitution provides that the right of choosing representatives, should belong to all the people.—To every man that is not in so mean a situation as to be deemed to have no will of his own — To every man of any property in the kingdom.

But that part of our fellow subjects that are gone to *America*, with a reservation of all the rights of the subjects within the realm, are entirely excluded from any share in this great design of the constitution, in providing for the common welfare of *all* the people; and by their not having a single vote in the choice of any member of the assembly, that represents the people, they are as effectually deprived of their part in the representative body, as by their situation they are in the collective.

The colonies are excluded from any share in the representative body.

But still it is said, the colonies are upon an equality with the people that live in all those towns and villages in *Great Britain* that send no members to parliament—that have no choice in any representatives;

Compared with those towns in the kingdom that send no members to parliament.

sentatives ; and therefore the people's part of the legislature is constituted, and the laws are made with as little of their consent, as that of the people in *America*.

It is very true that many towns of great consequence have arisen in the kingdom, since the time the constitution fixed on those places that send the members to parliament ; which at that time there is good grounds to believe were of so much importance, as to make it appear reasonable to the people, that if the rights of all those places were preserved, and provision made by the legislature for the good government of them, no injury could befall the rest of the kingdom : and every man would then see as we do at this day, if ever he was aggrieved in his property, by living in a place that sent no representatives, he had nothing to do but to remove into another that did.

But this cannot be done by all the people that now inhabit those great and populous towns that trade and industry has raised in the nation, since the elective bodies were settled, therefore those towns neither are nor can be represented ; but are exactly in the same situation

tuation as the colonies, and might with as much justice plead an exemption from taxes; because they have no share in forming the legislative body that imposes them.

But in what counties are those towns built in *England* that are not represented? Since the privilege of sending members to parliament was extended to the county of *Durham*, the town of *Sunderland* has grown up in a part of it, and in the hundred years that this county has had any representation, a small fishing town has become a port with between two and three hundred sail of ships belonging to it, and from fifteen to twenty thousand inhabitants living in it, and dependent upon its trade. But who will say that this town—that those inhabitants are not immediately represented, in the persons of the members for the county in which it is built? The honourable gentlemen that sit in parliament for that county will not say so; they will not tell you that they have no constituents in this town. Neither will the people there say that they have nothing to do in any election—in sending any member to parliament. They will tell you quite the contrary—that there never is an
an

an election of a representative for the county in which they live, without some of them joining in the choice. And thus it is with all the towns of any note in every other county in the kingdom.

The town of *Leeds* has its freeholders for the county of *York*, *Manchester* for *Lancastershire*, and *Birmingham* its electors for the county of *Warwick*; and as all these places have increased in numbers and riches, their weight and interest increases in the representation of the county of which they are a part. These are the towns that are compared with the colonies—these are the people in *Britain* that are said to be as little represented as the people in *America*. Whoever asserts this ought to support it by a *fact*, and point out that man living in *England* that has property enough to boil a pot, and may not if he pleases have a vote in choosing a member of parliament,

It is not a few, and those too whose judgments give weight to their opinions, that contend the qualifications to vote at elections are too common, too low. And certain it is, that they are so easily to be obtained as to make them the general property

property of all the people in the kingdom; who have any property to be affected.

But then it is said, if those elective privileges are so attainable, and no distinction being made between a subject from *America* and a native of *Great Britain*, it is their own fault if they are not partakers of the common right of their fellow subjects. There is nothing to prevent their becoming free of our cities, and corporations, and voting in all elections of members of parliament. And not only as many Americans as choose to come over may be electors, but they may become the very members of the assembly that taxes their property in *America*. And besides, the intercourse between the trading towns in *Britain* and *America*, must ever give the interest of the colonies so many advocates in parliament, as to make them always stand upon equal ground with their fellow subjects at home; more than this it would be unreasonable to ask—unjust to grant them.

The great provision made by the constitution for securing the property of the people, arises from their representatives being made to bear their due proportion of the burthens they impose, in

The colonies do not partake of the provision made for securing the property of the people.

com-

common with the people on whom they are laid : and when the member that has given his voice for making of a law—for granting a supply, comes without the door of the assembly, he must bear his part and submit to the law he has assisted to make. But was the decay of one half of the electors in *Britain* to be recruited from the woods in *America*, and their cities made to furnish us with the same proportion of representatives in parliament ; what security would the colonies have, that a single man of them would ever return cross the western ocean, to pay with the sweat of his brow, a single guinea towards any tax the house of commons might lay upon *America* ? If electors or members from *America* had no property there to be taxed, it admits of a supposition that they might sometimes be unguarded in their liberality in disposing of that of others. And we must believe the gentlemen from *America* vastly superior to those of *Great Britain*, if we suppose them incapable of ever being so unwary ; as to tax the colonies either in mode or extent, beyond the possibility of their complying with it. And indeed nothing is more naturally to be expected than mistakes, from conclusions formed at a distance, without any other knowledge than what is received
at

at second hand, and no joint property at stake to feel the effect of the resolutions that are made: Was the representatives of the people of Great Britain only to have their fellow feelings kept alive for their constituents by letters and petitions; we might soon expect to hear *St. Stephen's* sacred walls resound with the loud jollity of the members; whilst the body of the people without doors were weeping and dying under the loads laid upon them, by those that were not to touch the burthen with one of their fingers: This great evil our constitution foresaw, and therefore ordained for ever, that no tax should be laid upon the people; but by those whose property was placed as an hostage for their conduct, amongst that of the people's on whom the tax was laid: And whether the members of the house of commons are born in *Britain* or *America*; if they have no qualification—no property in the colonies, equal violence is done to their part in the provision made by our constitution for the common security of *all* the subjects:

But still the colonies are said to be *virtually represented*. That a member of parliament is not like a deputy sent from one of the United Provinces to the assembly of the States of Holland, where he appears only in the name of the province he represents, and acts under its immedi-

Virtual representation applied to the colonies.

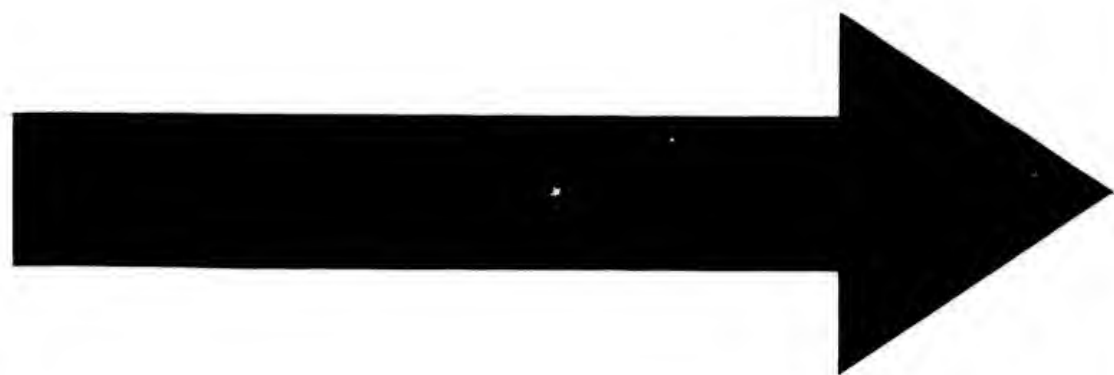
ate controul. A member of parliament is very different; the moment he takes his seat in the house of commons, he is to be considered not only as the representative of his own particular constituents, but of all the commons—of every subject of the crown in every part of the king's dominions. And as he is not obliged to act under the controul of any single society of the people, he stands in the name of the whole, and therefore not one subject is unrepresented from the farthest east to the remotest west, but all may make themselves heard by their common representatives—all may find redress in the house of commons; and of consequence all are bound to pay the taxes it imposes, and none can plead an exception as not being represented.

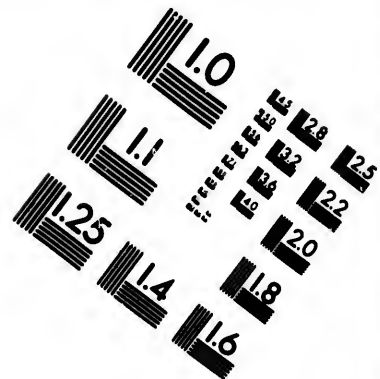
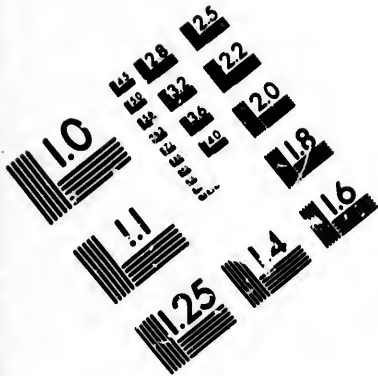
What I understand by being virtually represented, in the sense it is here to be taken, is, that a people may be represented without any choice of their own, without ever hearing, seeing, or knowing any one of their representatives; and the representatives equally strangers to the persons, circumstances, situation and country of the people they represent; without having any joint property or interest, and without ever being exposed to suffer any inconvenience in common with the people they represent.

represent. *Virtual representation*, as applied to the colonies, can mean nothing less than this; and the very sound of it does such violence to common sense, and is I think so contrary to the first principles of our constitution; that nothing could make it deserve a serious consideration but the respect due to those that have used the term; that have applied it to the colonies—a respect which no difference of opinion can cancel.

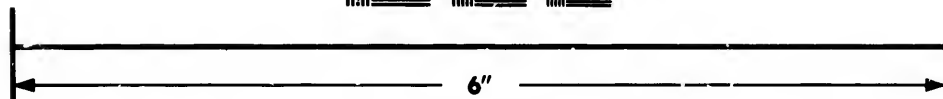
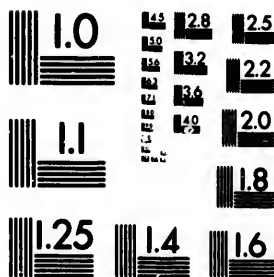
We will therefore enquire if such a principle appears to have any foundation in our laws; and if at any period in our history the idea of *virtual representation* is created by any act of the legislature.

Till the year 1535, *Wales* had been taxed by the English house of commons without having any representatives. In page 29th the reader will see what was the sense of King Henry VIII. and both houses of parliament upon it. The act begins with declaring the dependence of *Wales* upon the crown, and it ends with abolishing the unjust distinction; that *being taxed and not represented*, had hitherto made between his majesty's subjects there and in England. And we find the King, lords and commons continued in the same
opinion





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opinion for seven years after the *Welch* members had been added to the English; and, in the same king's reign, in the year 1542, another law is made to give knights and burgessees in parliament to the county palatine of *Chester*. The title by which the crown held its dominion of *Wales* may have prevented any thing being said, in the wording of the act, of the injury they had suffered in having been taxed without being represented. But after the *Welch* had become the subjects of the same sovereign, to continue to enforce their obedience under such a disparity in their privileges, was so great a distinction as common justice required should be taken away. But the act for *Chester* (in page 31st) speaks a different language. The inhabitants of this county had an equal title to every privilege of the people of England, therefore in this bill the two houses tell his majesty, that his subjects in the county palatine of *Chester* had been *grieved* with acts and statutes, and *injured* in their just liberties and privileges, by being subject to laws made without their knowledge, and liable to pay taxes laid upon them without being represented. This act therefore gives to that part of the subjects the only remedy that reason and justice suggested

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at that day—it gives them knights and citizens to be elected and chosen in the same manner as for any other county and city in England.

The house of commons now consisted of five hundred and nine members, and so it continued for one hundred and thirty years, till the 25th of King Charles the second, when it was found that a small part of his subjects were still left without the privilege of electing and sending representatives to parliament, although they had been liable to all rates and taxes equally with the rest of their fellow subjects; and therefore they were equally concerned with the other inhabitants of the kingdom, to have knights and burgesses in parliament of *their own choosing*, to represent their condition. These acts prove that it was uniformly held by the legislature down to the last century, that no part of the people could be considered as represented by members they themselves did not choose. All the members for *England* were not allowed to impose taxes upon a people whom stratagem and force had made subjects of the crown. But a law is made to empower *all the* king's subjects in Wales, to elect and choose for themselves representatives to all future parliaments.

ments. Again in 1542 the united members of *England* and *Wales*, were not to include the people of a single county, who had no share in their deliberations. And in the year 1672, five hundred and nine members were not considered as representing all the subjects of the crown, when a single county still remained that had not an immediate choice of their own representatives. The words—the spirit of all these acts are in direct opposition to every idea of *virtual representation*, not one of them admits of such a thought for a moment. And whoever would wish at this day to make that doctrine apply to any part of his fellow subjects, it is incumbent upon him to produce some authority from our laws to support it. Yet it is said, so far as virtual representation consists in being taxed without having any representatives, all these acts prove that virtual representation prevailed over all the people of *Wales*, *Chester*, and *Durham*, till the time the legislature gave to each of them the right of choosing their own members. And was none of the subjects to be taxed but those who lived within certain districts that did send members to parliament, it would follow that every company of people that leave the kingdom to seek their fortunes in the east or in the west, must either be allowed

allowed the actual choice of representatives, or be free from the payment of all duties to the government that supports them, and if the want of a voice in choosing representatives is to exempt them from the taxes imposed by parliament, it is the next thing to an exemption to all the laws of parliament, and their total independence follows of course; for how can they be subject to a *part* of the legislative authority of the state, when they are independent of the *whole* of it?

Any number of merchants or adventurers that go abroad only with a view of trading with foreign nations, and returning again to their native country, are to be distinguished from colonies, where the residence of the settlers becomes as fixed and permanent as the habitations of their fellow subjects in their mother country. Of this sort are our colonies in *America*, and we shall now enquire on what conditions they went, and what provision was made against their becoming independent of the state to which they belong, and for their bearing their just proportion of the charges of the government that protected their settlements and encouraged their trade.

Massachusetts Bay considered in the name of all the other colonies.

In the present question of taxation all the colonies stand exactly upon the same ground; I shall therefore consider the rights of one province in the name of all the rest. The lead that Massachusetts Bay has taken in the common cause of the colonies, and the question at this time arising more immediately from that province than any other, is the first reason for confining the enquiry to it. But all their privileges, and their common relation to their parent state, are so exactly alike, that it makes no difference from which of their records the evidence is taken for considering the rights of them all. But another reason for confining the enquiry to the province of Massachusetts Bay is, that the accounts of the first establishment of the New-England colonies, are more in every body's hands than those of any other part of America; by which means every one may be better able to see for himself what has really passed between the mother country and the province in question; and be able to form his own judgment from all the light that the nature of the case admits of, as well as to see that the passages here produced are stated according to the authorities from which they are taken.

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The history of Massachusetts Bay, by Mr. Hutchinson a native and the present governor of it, will give every enquirer the most satisfactory information: a work that I think no one can read without considering it as a lasting service to his country; and the good sense and moderation that breathes through these volumes, makes one regret those unhappy divisions that deprives the author of the just returns due to his labour. May these divisions soon have an end! may he live to reap the tribute of public regard! But if he, like many other men, whose writings have done equal honour to their country and themselves, is denied this satisfaction, may posterity hand down his name with the respect I must ever think the author of this history deserves from his country!

It may at this time indeed be unfavourable to the colonies in general, to consider their rights by the evidence taken from a province, the inhabitants whereof have so lately been rendered unpopular in the eyes of the nation, to which perhaps the eloquence of an able advocate has not a little contributed: and the open violation of private property, committed in the capital of this colony, has added too much weight to the
force

force of every argument used against them. Every good subject must certainly take the opposite part to all the violaters of the known rights of mankind; and those that would wish to see the late insult offered to the laws at *Boston*, treated in terms of the strongest abhorrence, need only look at the last public accounts from the neighbouring towns in the very same province. To include therefore the wrong-doer, and those who cry aloud against him to his face, in one common censure, would be unworthy the name of candour. And even in the very city of *Boston*, there is reason to fear many will severely partake in the punishment of the crime, they neither committed or could have prevented. But it is said the whole town united in opposing the landing of the *tea*—so did the whole province, and so did every province on the continent of *America* to whom it was sent: and for the same reason that they opposed the execution of the *Stamp-act*. And these reasons they have declared from the first, in a manner no way unbecoming the subjects of the government under which they live: a government built upon the principle, that none of its subjects should ever be forced to pay any other duties or taxes, than those that were laid upon them by their own representatives. And if it
cannot

cannot be said that the subjects in *America* joined in choosing the members of the assembly that laid this duty on tea, to be collected from the people in *America*, then it follows that they are taxed and not represented, and their rights as subjects under the government of the *English* constitution, are as clearly invaded as they were in the case of *Ship-money*; and the province of *Massachusetts Bay* now stands in the same situation in behalf of the rights of all the people in *America*, as *Mr. John Hamden* did for all the people of *England* in the last century. I am as much for the obedience of the people in *America* as I can be against their illegal oppression. I would wish to be as far from wilfully shutting my eyes, and thinking all the people of the colonies faultless, as I would be to give up my reason, and believe those incapable of mistake who exclaim so much against them. I am equally afraid of being misled in the mists that are raised by violence or interest on either side of the question. I contend not for men's prejudices. It is the *rights* of my fellow subjects in *America* that I only mean to defend: and those rights not such as are of vague and uncertain interpretation, but such as the *English* constitution makes the unalterable property of every man that lives under the protection

tion of its laws. And if the people of *England, Scotland, Ireland, or America*, are ever to be taxed without having, or the possibility of having, any choice in those that impose the taxes upon them, they are no longer the *subjects* but the *slaves* of government. Our constitution as established by the laws, is utterly repugnant to every attempt to divide the right of taxation from the privilege of representation. And could any pretence ever justify the separation of those rights with a part of the subjects, the same reasons would hold good with the whole. These are rights so essential to our constitution, that they make a part of the rules by which the legislature itself is bound to walk. And it can no more take away the provision the constitution has made for the security of the people's property, than it can the known privileges of the peers or the prerogative of the crown. The legislature cannot turn our government into a republic, no more than it can into an absolute monarchy. Rights therefore there are that even the legislature cannot assume, regulate, and return to any part of the people at its pleasure.

A short
view of the
province of

We shall now enquire what provision has *already been made* for continuing to the people that

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are gone to *America*, the rights they possessed in their mother country; and for securing their subjection to the supreme government, upon an equality with their fellow subjects in *Great Britain* and *Ireland*. For this end we shall take a short view of a few passages selected from the history of the first settlements in *New-England*, and of the laws and acts of state made for the establishment and government of the province of *Massachusetts Bay*, and consider the rights of all the other colonies as standing upon the same ground.

Massachusetts-Bay from its first settlement.

The reader will see what gave rise to the New-England settlements, which first took place in the year 1620. And the colony of Massachusetts Bay was first formed in the year 1629 of people that fled from the hands of oppression in *England* to enjoy liberty of conscience in *America*. They were then empowered by the authority of the crown, to elect their own governor, deputy governor, and magistrates, and to make such laws as they should think fit for the good of the plantation, not repugnant to the laws of *England*.

In 1634, the regular exercise of government begins to appear. But the people to whom

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whom these rights were granted—the *freemen*; were already so increased that they could not meet together to debate and determine matters of common concern. And therefore by necessity they devolved the powers and privileges that belonged to the whole body that could not assemble, upon a part of their number that could. This was not provided for in the charter, neither was it necessary that it should; the ancient laws and charters in *England* had likewise granted the privileges to *all* the people; and if an hundred men chose to trust one to do their business in the legislature, it was the same thing to the prince with whom these privileges were settled; it was the same thing to the people that enjoyed them: The end was mutual good, to the prince the support of his government, raised with the consent of people; and to the people protection: Thus we see it was with the first settlers of the colony before us; they could not have the presence of their prince, and it was unnecessary to burthen them with the whole system of their country's laws; to be all at once in full force and virtue, had all the laws of *England* been engrossed in their charter, they could only have used what would apply to an infant state; and therefore with wisdom becoming the simplicity
of

of times less refined, they had the whole laws of their mother country given them for their *rule*, and it was left to themselves to apply them as necessity and their growing wants required. Still the King was their supreme governor, for it was him with whom their compact was made, and by thus pointing to the laws of *England* as their guide in *America*, it was the same thing as if both King and people had assembled upon the sea shore, and the one had sworn to govern them according to the laws of the land, and the other to obey him in *America* as subjects within the realm.

Agreeable to the pattern shewn them by their prince, did the people of this colony settle their form of government. Or in Mr. Hutchinson's words, " Thus they settled the *legislative* body." And was the government of this colony understood to be *legislative* in the year 1634? Certainly it was, and the people were as much bound to obey the *laws* made by the legislative body, and administered by the governor and magistrates in the name of the King, as if they had remained subjects within the realm. And it is with admirable propriety Mr. Hutchinson calls the govern- P. 45.
ment

ment of each province, the *effigies parva* of the mother state. Could the government of this colony be *legislative*, and thus exactly resemble the government of *England*, and not possess an *exclusive* right to tax the people of the colony? If they are not in possession of this right, how can their legislative bodies be said to bear that resemblance to their mother country, Mr. Hutchinson here says they did in the year 1634? If the people's representatives in the legislative body of each colony, are not in possession of the *sole* and *exclusive* right to tax those they represent, instead of their being the *exact* resemblance of the government of the parent state, they are not only unlike it, but totally the reverse, and that in a point of no less importance than the power of disposing of the property of all the people.

But certain it is, that the legislative body of the colony under our immediate consideration, did not only resemble that of its mother-state in *design*, but in truth and indeed. And accordingly we see that it began to exercise its authority after the very same manner; and amongst many other valuable papers preserved in Mr. Hutchinson's history, we have a state of the proportions that the assembly of representatives of the

the whole people agreed to charge their several constituents with, towards the supplies required by their government in the year 1642. No provision was made for this in the charter; the very nature of their legislature implied it. Their property was made sacred by the government under which they were to live; and it followed of course that they were to support the power that protected them. And this state of the supply, granted in the infancy of the colony; affords no small proof of the necessity, of their ever being taxed *only* by their own representatives.— One division of the colony we see is charged with one hundred and twenty pounds to the supplies; whilst another is made to contribute no more than five. Who could know the justice of this, but those that knew every part of the province, and all the people in it, and could represent their real condition?

The form of government given to the first settlers in the colony in the year 1629, continued to grow up in its resemblance to the rule laid down to them till the year 1683. When the King was unfortunately advised,

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to assume the legal and ancient rights of his subjects into his own hands, his ministers justified

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their measures to the nation, by pretending that it was necessary for the support of government, and the good of the people, that their charters should be new regulated: And as the reformation was intended to be general, they began with those first, whose attachment to their antiquated systems appeared to be the strongest, that the influence of their example might occasion less trouble with the rest: Accordingly we see in the year 1682, the steps that were thought necessary to be taken against the charter of the city of *London*, and when such as stood foremost in its defence were seen to come off with the worst, they that could not think submission their duty, saw it was their safety, or found it their interest; and a majority of the common council of *London* were of an opinion, that the rights of the people would be much improved by the hands of the minister, and accordingly resigned their charter to be regulated by those that found fault with it. An account of these proceedings, and the surrender the city of *London* had made, accompanied the declaration sent against the charter of the infant colony of *Massachusetts Bay*, and the governor and major part of the assistants despairing of any success from a defence, resolved also to give up their charter, and their resolution laid a fortnight

fortnight for the determination of the representatives of the people, when we find the poor farmers returned this short answer; *The deputies consent not.* But five years after this, we have the satisfaction of seeing, their manly resolution adopted by the house of commons, who resolved that the proceedings against the charters of the cities in *England* and *plantations* in *America*, and the surrender of those charters, was a violation of their ancient rights; illegal, and a grievance. And in the year 1690, by the act of the second of William and Mary; the sense of the whole legislature is expressed in the following words, “ *That the judgment and proceedings against the charter of the city of London were illegal and arbitrary.* A judgment at law had been found for the forfeiture of the *city’s charter*; but the *colony’s charter* was declared forfeited only for want of appearance, which was required at Westminster before the notice reached the colony, so that they had not the opportunity the city of London was indulged with, of hearing the charges against them, and appearing in their own defence. If therefore the proceedings against the city’s charter was illegal and arbitrary, those against the colony were still more so, and consequently they had an equal

equal right to the restoration of the privileges taken from them. But though the rights of the people were pronounced by the two houses of parliament to be *equally* violated, yet those of the *plantations* were at a distance, when their fellow subjects *in England* received back their former privileges, from the hands of the Prince the Revolution had given them. And the poor people of the infant colony, who had nobly refused to surrender their charter, to what the act of parliament calls illegal and arbitrary proceedings, were left to stand alone against the power of the crown, and make the best bargain they could for themselves.

Substance
of the co-
lony's pre-
sent charter
and remarks
thereon.

The privileges therefore granted them by their charter, could be no other than what in common justice they were thought intitled to as subjects of the same government, upon the principles of which, the legislative body of the colony was fixed in the following manner. The crown appoints the governor, the governor calls the meeting of the assembly at any time he thinks proper, and adjourns, prorogues, and dissolves it at his pleasure. No act of government is valid without his consent. He has the appointment of all military officers solely. And
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of the officers belonging to the courts of justice with the consent of the counsel. And he has his negative upon all civil officers that are elected by the two houses. And no money can issue out of the treasury, but by his warrant, with the advice and consent of the council.

The council is chosen annually by the assembly, and forms the second branch of the legislature. And the representatives of the people are elected by the freeholders who have forty shillings sterling value a year, and by every other inhabitant of forty pounds sterling personal estate. These representatives again choose their own speaker to whom the governor has his negative. Thus are the three branches of their legislature formed and completed. On which Mr. Hutchinson remarks, that the governor has no vote in the legislature, and does not, or regularly should not, interest himself in matters in debate in council or in the house, but no act of the other two branches is valid without his consent. On the counsel governor Hutchinson observes, that it is very difficult to form a second branch of the legislature, analogous to the second branch in the British constitution: the colonies not being ripe for hereditary honours, otherwise

otherwise he says, there seems no more room for exception to them there, than in *Ireland*.

We have here the form of government given by King William to the colony of Massachusetts Bay. Before that prince granted this charter, he had restored and settled the ancient privileges of his subjects within the realm, and now he came to consider those of his subjects in *America*. It cannot be supposed that a colony that had only existed four and fifty years, should have any such weight with the crown, as to obtain what was inconsistent for the crown to grant. And as they were unaided by any other influence, than their own natural right to the common privileges of their fellow subjects, it is certain that the powers then given to the legislature of the colony, could be no more than what were thought reasonable, just and expedient for the King to grant them. And so far from these things being done in his Majesty's closet, in order to increase the power of the crown, that we see (p. 53.) the restoration of the New England charters, was included in a bill that had passed the house of commons, and whilst it lay in the house of lords, the parliament was unexpectedly prorogued, the King going to *Ireland*. By which it is evident

dent that the whole legislature set its seal to all the privileges the colony now possesses by their present charter. This was done so soon after the revolution, that the prerogative of the crown and the rights of the subject, must have been full in the view of both houses of parliament, and could not be absent from his Majesty's mind, when he marked out the constitutional limits of both in this charter, as the rule for governing his *American dominions*.

If it is now objected, that it never could have been intended to raise up a legislative body in any part of the dominions, independent of the supreme legislature; and that the King could not give this privilege to his subjects in *America*.

They that raise these objections to the rights of the colonies, would do well to consider, from whom it was that the people of *England* received the stipulation of their rights? They also received them from the crown.

Then the crown could surely allow its subjects to take with them to *America*, the privileges they possessed before they went. The right of the
crown

crown therefore to grant the privileges it did, to its American subjects, is unquestionable; and the house of commons having included the restoration of these privileges, in a bill they had passed and sent up to the Lords, makes the rights of the colonies stand upon a foundation that admits of no increase of security.

This charter was granted at a time when all the rights of the subjects had just been reviewed and most solemnly ratified. And to have given to a people the choice of representatives to the legislature that was to govern them, and for these representatives not to have the sole power of taxing the people they represented, would not only have been contrary to the ancient rights of all the people, but a total contradiction to every principle laid down at the time of the Revolution, as the rules by which the rights and privileges of every branch of our legislature, were to be governed for ever. But allowing the powers granted by this charter to be complete, and to carry with them an *exclusive right* to the colony, to impose all internal or domestic taxes upon themselves; yet it is said, the duties on imports into *America* are of a different nature, and they being laid by parliament, does not interfere with
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the privileges granted by the charters; as the colonies have it in their power to use or refuse the articles on which the duties are laid, and as they have a knowledge of the conditions beforehand, the paying of the duty becomes an act of choice, not of necessity: and if they will have such an article as tea, it is but reasonable they should pay a duty upon it to the support of government.

That the colonies should bear a proportion of the public burthens is most reasonable; and that no article can be more properly charged with a duty than *Tea* is allowed, and was it to pay a pound for every penny of duty it is now charged with, it would have my hearty consent, as I entirely agree with those that think it would be better for the health and strength of the whole race of *Britain*, if no more of its debilitating juice was ever used amongst us. But the question now is, not the articles on which it is most expedient to lay duties, but to whom *the right* of imposing all duties on the colonies belongs. If the house of commons can grant to the crown, a sum of money to be collected from the people in *America* by a duty upon tea, the house of commons can also grant a duty upon every barrel of flower, or any other necessary of life, shipped

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or landed in any of the colonies; and if they can do this, the same right extends to taxes upon land, houses, or the head of every man in the colonies: so that if the house of commons, can grant a duty to be collected in the colonies upon any *one* article, it follows that they have the same right upon *every* article, and the powers granted to the legislative bodies of the colonies, becomes merely nominal so far as relates to taxation; as they can have no *exclusive right* in that, which another may interfere with at pleasure. And the people in the colonies who are bound to render obedience to the acts of their own legislature, become amenable to a double legislative authority.—Government at home hears of the designs of its enemies to attack *America*, parliament is assembled, and the house of commons grants additional duties to be raised in the colonies to pay for their own defence. At the same time the colonies are surprized with the appearance of the enemy, the governor calls the assembly, and asks for an immediate supply, (as we see by the very last accounts from *South-Carolina* the governor of that province had been obliged to do) by this means, as soon as the act of parliament reaches *America*, a second supply must be raised for
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the same service, unless a suspending power interferes, to prevent the act of parliament's being carried into execution till it can be repealed at home. This and many other perplexities would be the natural consequence of a double legislative authority, in the constant exercise of the same power; besides the numerous train of inconveniences that would ever arise, from taxes being laid by those, that were at so great a distance from the people who were to pay them.

But it is said again, was it left to the colonies alone to tax themselves, they might not only refuse to grant their proportion, but even to pay any duties at all. But have not the colonies the same necessity laid upon them to pay taxes, that the people of *Great Britain* have? Do not they stand as much in need of protection from foreign enemies? have not they the same occasion for security in all their domestic and civil rights? And does it not follow that they cannot enjoy either one or the other, if they do not support the government than alone can afford them both? But it is said the colonies know that the honour and interest of *Great Britain*, will never allow her to see an invasion upon any part of her dominions without defending them; and therefore they are sure of
 pro-

protection from all foreign enemies, whether they contribute to the charge of it or not. But has not the crown, by the governor of each province, the same opportunity of laying the subjects in the colonies, under an equal necessity of granting supplies, that it has over the people within the realm? Certainly it has, and the colonies have the same inducement at this day, to contribute to the support of government, as the people of *England* have had, ever since the first settlement of the legislature: the necessity for doing it is the same, and therefore the inclination may reasonably be supposed to be equal. The people of *England* would be as glad to keep their money in their pockets as the people in *America*, could they enjoy the benefits of an excellent form of government, without contributing to the expence of maintaining it; but that being impossible, it is not then a matter that inclination is to decide, but interest and necessity. And every subject may say, as Mr. *Hamden* is said to have done to the King, when his majesty condescended to reason with him, upon his refusal to pay so small a tax as that of *Ship-money*. He answered, if his representatives thought it necessary that he should give one half of his estate, he would readily part with it, if it was to protect him in the safe enjoy-

enjoyment of the other half. And if any thing is to be taken from the colonies, without the consent of their own representatives, then the people can no longer know the purposes for which the aids are required of them, and if they do not choose those, that give the authority for taking away part of their property, then they hold the remainder by mere grace and favour: for it cannot be said that they have any property in that, which another whom they have never seen, can grant away at pleasure. And if the house of commons has the right of granting a single shilling to the crown, to be raised by a tax to be collected of the people in *America*, the house of commons has an equal right to dispose of any other proportion of their property; and therefore the people of the colonies have their property no longer secured to them, in the manner our constitution intended every subject should have; as they cannot be said to hold their possessions under the protection of the laws, when they have not a single voice in making any one law that affects their property.

If the power therefore of taxing the colonies, is in the possession of any other hands than those of their own choosing, if it was only to be exercised

cised in a single instance, still it must follow that the same power reaches to every consequence here ascribed to it, and the whole property of all the people in the colonies; is as much at the disposal of a power totally independent of them; as if it could be taken at the will and pleasure of a single person. Those who have been born under the influence of our government; and brought up in the principles our laws make known to every man; cannot surely wonder at the reluctance of any part of their fellow subjects, to grant supplies or pay duties thus laid upon them.

But supposing it is now admitted, that the people in the colonies can only, by our constitution, be liable to pay the duties laid upon them by the representatives of their own choosing, by acts of the legislative body placed over each province, and that the house of commons cannot grant a shilling to be raised from them: The vote of the house of commons, passed by the lords, and assented to by the crown, is the act of the supreme authority; and if the colonies are thus placed out of the reach of one act of the supreme legislature, they are independent of them all. And if they are independent of the *whole* legislature, they are of course independent
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of every part of it, their total independence unavoidably follows, and the colonies can be no longer under any kind of subjection to their mother country—to the supreme government of all the dominions of the crown.

We have already seen from the first planting of the colonies, that the constitution of England was made the model of their governments, the laws of England were to be their perpetual rule, and we have seen from the first dawn of their legislative body they walked by it.—The *Free-men* chose their representatives as in *England*, and they taxed all the subjects; an upper house was formed of counsellors, and the King was at the head by his governor. Now it is said, because this is their form of government, that it follows they must be totally independent of the supreme legislature. Pray what was the situation of *Scotland* before the articles of union were made with *England*; Had not the two nations one common sovereign for many years? and did the King, lords and commons of *England* tax the subjects of the crown in *Scotland*? By no means, they were taxed by their own representatives, in their own legislature, at the head of which the King appeared by his high-ommissioner,

er, as he does at this day by the governor of a colony.

But we need not go so far back as the act of union, to find a people that will not allow the *supreme legislature of Great Britain*, to alter a single letter in a law to tax them; and yet are no more independent than the people of the colonies. *Ireland* is subject to the same sovereign as *America*. The people in *Ireland* choose their own representatives; so do the people in the colonies. The people in *Ireland* are taxed by their own representatives, so have the people in the colonies been ever since their first settlement. The crown appoints the lord lieutenant of *Ireland*—The crown appoints the governors of the colonies. The lord lieutenant calls the meeting of the legislative body in *Ireland*. In the colonies the governor calls an assembly when he thinks proper, and adjourns, prorogues and dissolves it at his pleasure. The *Irish* acts are sent over to be allowed by the crown:—The acts of the *colonies* are the same. The representatives chosen by the people of *Ireland*, will suffer no duties to be collected from the people; but such as they grant themselves. And the representatives chosen by the people in the colonies claim the same right.

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P. 56.

P. 61.

The people of the colonies left their native country with the strongest assurances, that they and their posterity, should enjoy the privileges of free and natural born English subjects. And now they are contending for a privilege, in the possession of a conquered people under the same government with themselves.

But in a question of so much consequence as the right of disposing of the property of a numerous people, no private interpretation ought to be allowed the least degree of weight on either side of the question, farther than it can be supported by the authority of some act of the supreme legislature. Therefore in this comparative view of *Ireland* and *America*, it may be necessary to enquire if their dependence upon the supreme authority, have ever been considered in the same point of view. In the act of the sixth of the present reign, for securing the dependency of his Majesty's dominions in *America*, the words are, "*That the king's Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons of Great Britain in parliament assembled, had, hath, and of right ought to have, full power and authority, to make laws and statutes of sufficient*

A comparative view of the dependency of *Ireland* and *America*,

force and validity, to bind the colonies and people of America, subjects of the crown of Great Britain, in all cases whatsoever." And by an act of the sixth of his Majesty King George the first, (1719) for securing the dependency of the kingdom of Ireland, the words are, "That the king's Majesty, by and with the advice and consent of the lords spiritual and temporal and commons of Great Britain, in parliament assembled, had, hath, and of right ought to have, full power and authority, to make laws and statutes of sufficient force and validity, to bind the kingdom and people of Ireland." But at the time this law was made, did parliament claim the right of taxing the people whose dependency upon its supreme authority is here declared? By no means,—not a word of any such claim is to be found. Therefore an exemption from all duties or taxes to be imposed by the house of commons of Great Britain may exist, and the people possessing that exemption, be bound by the laws and statutes made by king, lords, and commons of Great Britain. The whole kingdom of Ireland is thus bound by the acts of the supreme legislature, yet the people of Ireland can only be taxed by representatives of their own choosing, and are not obliged to pay any other duties or taxes, than

than those that are laid upon them by the acts of their own legislative body; who were in possession of this right at the very time the act was made for declaring their dependency. And the continuance of *the right* and *the dependency* to this day, bear testimony that the exclusive privilege to be taxed by their own representatives, may exist with the dependency of the people upon the supreme legislature. Shall this principle of government then be a truth and a reality when applied to *Ireland*, and become a vain and idle theory only when it is applied to *America*? and shall we wade through the Western ocean, to find an irreconcilable difficulty in uniting taxation and representation in the colonies, when a look across the Tweed or St George's channel, is sufficient to convince us no such difficulty exists.

Had the right of taxation always followed the supreme authority, there would have been no need of an act of union for taxing of Scotland. But the people of that country possessed the right of being taxed only by representatives of their own choosing, and they would not part with their privilege, without a just share in the assembly

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ply that was to tax them for the future; and their proportion of taxation, was made the very measure by which that of their representation was settled. The colonies are far from having been so long in possession of the same right of taxing themselves, but they have been longer in possession of it than any man's knowledge goes to the contrary; and the people of the colonies can say in vindication of their right, what cannot be proved by *England*, *Scotland*, or *Ireland*, that they have been taxed by their own representatives ever since they have existed. And most reasonably was that right allowed them from their first settlement, for the intimate relation that our constitution ever supposes, between the people and their representatives, could never have been preserved at the distance the colonies were placed from the seat of the supreme legislature, and the intercourse that the very nature of things so frequently require, between the member and his constituents, could never have been carried on between *England* and *America*; as every day's business shews, it is often of the utmost importance to the people, that the member should be able to represent their condition to the very day he is speaking, and to tell from their own mouths the effect an act will produce upon them, between

tween the time of bringing in a bill, and its passing into a law.

These and many other reasons that will ever remain, must have appeared when the government of the colonies were first made legislative; and to be legislative over the people, and not to possess the *exclusive* right of taxation, is contrary to every principle of our constitution—to all the laws that form it, and to every subsequent act of the supreme legislature. Wherever they are found, they speak the same language. Whenever taxation and representation have been the objects of parliamentary consideration, we see its wisdom displays itself always in drawing the same steady conclusion—that these were rights never to be separated—that never could exist apart. To be taxed and not represented, parliament has always considered as oppression, and whenever it has come before them, they have abolished the yoke for ever. Not by holding out an ideal and virtual representation, but by giving the actual choice of members, to represent the real condition of the people, who were taxed and not represented before.

But it is said these very acts prove, not only
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the right of the legislature to tax whole districts that have no representation, but they also prove the exercise of that right, till the time the legislature was pleased to give them the choice of representatives; and as these were acts of favour, the legislature might have continued to exercise the right, without ever granting the privilege. That in the case of the county palatine of *Chester*, the inhabitants petitioned King Henry VI. as early as the year 1450, to grant them representatives to all future parliaments, "*that they might see no acts were made to the hurt of the inheritors of the said county: of their bodies, liberties, franchises or possessions.*" But this privilege was not granted them till the year 1542-3, near an hundred years after, during all which time the parliament's commissioners did not desist from levying the parliamentary taxes, as appears by their second petition, recited in preamble of the 34th and 35th of Henry VIII. Therefore the parliament may tax the colonies, till they are allowed to find representatives to the supreme legislature.

The instances produced of extensive districts of the subjects being taxed without representatives, are those of the principality of *Wales*, the counties palatine of *Chester* and *Durham*. And what

what was the interpretation of the legislature in all these cases; of the rights of subjects by the *English* constitution? It was found that the people in those districts were taxed and not represented, and the language of the legislature is the same to them all.—If you pay duties and taxes it is your right to be represented, and partake in the choice of those that lay them upon you, and therefore we grant you representatives to all future parliaments. It is true parliament might have refused to grant this privilege, and continued to enforce the payment of the duties; but before this could have been done, it supposes the king, lords and commons, to forget the first principle of every senator, *Without justice no government can be maintained.* And if we trust to the history of the nations whose sun is set, this maxim must ever hold true; for wherever we discover repeated instances of partiality and injustice, from a government to a part of its subjects, we soon after find the whole are taught to resist or trample upon its authority. These acts therefore before us, are equally worthy of the legislature that made them, and of the principles of the constitution on which they are founded. And are these acts produced to support the exercise of a power, against the general rule laid down

down by the constitution, because these instances were exceptions to it till they were taken away? Are these precedents to be of no weight, because the principles upon which they were made, were only declared to be true by the legislature, *so lately* as two hundred and thirty nine years ago?

The sense of the legislature on the rights of the subjects within the realm and in the colonies.

The right of choosing representatives given to all the subjects, by charters and the more ancient statutes, are too plain to be mistaken; but were they liable to be misunderstood, the subsequent acts of the legislature sufficiently explain them; and the acts for continuing the rights of the people gone to the colonies, are so interwoven with those made for preserving the rights of the subjects within the realm, that it is impossible to separate them: and they are considered upon all occasions with such an equality, that any expression of disparity at this day, is a direct contradiction to repeated acts of the supreme legislature.

In the year 1535, the injustice done to *Wales*, in levying duties where there was no choice of representatives, was done away.

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In 1542-3, representation was united to taxation in the county palatine of *Chester*.

In 1628-9, the crown gave a charter to the first settlers of the colony of Massachusetts Bay, empowering them to establish a legislative body, and to govern the people by laws agreeable to the laws of England; and that they and their posterity should enjoy the privileges of free natural born English subjects.

In 1634, they began to exercise those privileges, and to choose their representatives.

In 1642, those representatives taxed the people of the colony, according to the ability of the different districts of their constituents. p. 45.

In 1672, the privilege of the constitution was confirmed by the legislature to the inhabitants of the county of *Durham*, and because they were liable to pay duties, they were equally concerned with all the other subjects of the crown, to choose for themselves knights and burgesses to represent the condition of their county:

In 1682, the charter of the city of *London* was taken away, and with it fell their right of choosing their own representatives.

In 1683, the charter of the colony of *Massachusetts Bay* was taken away.

In 1688, the house of commons unanimously resolved, that the taking away of charters was a violation of the people's ancient rights, was illegal, and a grievance.

In 1689, a bill passed the house of commons for restoring all the charters, in which the *New-England* charters were expressly mentioned.

And in the same year the liberties and privileges formerly possessed by all the subjects, were by an act of parliament, declared to be their right for ever.

Conclusion

We have here the repeated opinion of the legislature for the course of an hundred and fifty years, and all their acts speak the same language; whether they relate to the colonies, or to the people within the realm, the voice of the legislature

is still the same. The privileges given to the people that went to *America*, are a copy of the more ancient rights possessed by those that remained at home, with no other difference than was necessary to make them apply to their situation and distance. Their persecutions have been as similar as their privileges, and the sense of the legislature is alike in both. And when parliament itself was borne down for a season, as soon as it recovers its force, we see it holding out the same protection to the rights of the people in *America* as those in *England*. The periods at which representation is united to taxation in *England*, are intermixed with the times of allowing the same privilege to the people in *America*. And the exercise of these privileges in the colonies, exactly corresponds with the use made of them at home, and the whole of these acts are one uniform comment upon the constitution, that ordained wherever its influence reached, that to choose representatives and to be taxed were inseparable rights. The ancient charters and statutes that form the limits of every branch of our legislature, have sown the seeds of *representation* and *taxation* upon the same ground, and every subsequent act has transplanted them together ;
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and wherever we meet with them, whether it is in *Wales, Chester, Durham, Scotland, Ireland* or the *Colonies*, we find those kindred plants growing up in each others embraces; and by repeated laws, the hands of the legislature have twisted every fibre of their extended branches together. And whoever attempts to separate them, his labours ultimately tend to raise the funeral pile of the constitution. For if ever an extensive district of the king's dominions, is to be taxed by any other authority, than the representatives their several constitutions have given them the right of choosing, it destroys their strongest motive of union, and the state must become weak, in proportion to the consequence of that part of it, that is denied the free communication of those privileges, that are the life, health, and strength of the whole body. And probably it would not be so fatal to the state, was the right to tax themselves denied to the whole people at once: for then every man would feel himself in the same situation with his fellow subject in any other part of the dominions. But when one district is made to submit to an abridgment of the general rights of all, whether it be *Scotland, Ireland* or *America*; the people of that district

district are immediately marked out, as aliens to the common wealth, and their submission would be their infamy; not only in the eyes of their fellow subjects, and all the world, but in their own estimation: every man amongst them would perpetually carry about with him, a consciousness of his being degraded beneath the equality of all his fellow subjects, excepting those that were guilty of the crime of living in the same part of the dominions with himself. Had *Wales, Scotland* or *Ireland*, never known what it was to be taxed by representatives of their own choosing, since *England* was the seat of the supreme authority, they probably might have been content by this time, to have been swept in with the Isle of Man and the Eddestone-rock, into the general representation of the legislature, as the head of the whole state. But allow any one of those districts, an hundred years possession of all the rights of the subjects within the realm of *England*, and then try the experiment of taxing them by an assembly wherein they have not a single voice. Ask the first *Welshman, Scotchman* or *Irishman* you meet with, what would be his conduct upon such an occasion—what would be his submission to a law that was made, in which neither himself

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or a single man in his country had the possibility of saying Yes or No to it? And that his whole country put together, had not so much as the privilege of choosing one man that made the law or laid the tax upon him, I leave the Gentlemen of these countries to answer for themselves, I should only say what I thought of an *Englishman*, that refused upon such an occasion to place his weight in the lighter scale, till he saw the beam regain its equipoise.

Now allowing human nature to be the same in *America* as it is in *Europe*, and every man's own feelings in the mother country, will tell him what those are likely to be in the colonies. The people in *America*, and those of *England*, *Wales*, *Scotland*, and *Ireland*, are sons of the same common forefathers, they are therefore the common heirs of the same rights and privileges. These were confirmed to them when they first left their native country to settle in *America*. The rights they inherited as subjects were declared to be the perpetual possession of them and their posterity; and they received the declaration of those rights from the same authority, by which the subjects within the realm, hold their privileges to this day. They therefore left their mother

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country, with her laws in their hands: with them they crossed the unfrequented ocean, and entered the wilderness of *America*: the fatigue and dangers of the day, received at night the consolation, that the fruit of their labour was their own, secured to them by the excellent system of their country's laws: under their protection, every man cleared his ground, sowed his seed, and reaped his hard earned harvest: but toil was sweeten'd by reflection—Here is my charter, a transcript of my country's laws, that says my property is my own and my heirs for ever; so long as *England*, my native country is free, no power on earth can deprive us of our own without our own consent. Upon this foundation did all their labours rest: security in the possession, quickened industry to acquire, and Autumn found a fruitful plain, where winter left a barren wilderness. Till the time at length came, when the legal rights of the people in *England* and those in *America*, were equally invaded, by the unconstitutional weight the executive power had acquired; and the last act of state we have mentioned, was that declaration of all the people's rights, made in the year 1689 after the Revolution. But besides this general declaration, for restoring and confirming the rights of all the

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subjects, the colony of Massachusetts Bay received, in the year 1692, a new charter settled and signed by his Majesty King William III. who had been too much employed in adjusting the constitutional rights of all his subjects, to be unacquainted with the privileges of any part of them. And never could a charter have been granted at a season more likely than this, for placing the just limits to every branch of the legislative body it re-established. The rights of the subjects and the powers of the crown had just been laid down and fixed; so that when the King came to settle the terms of this charter, he had perhaps at that time more knowledge of his own and his people's rights, than ever a king of *England* had been possessed of before: and tho' he was at full liberty to exercise his own judgment, yet he had seen on that important occasion, when the restoration of charters was before his parliament, that they had considered the rights of the colonies as standing upon the same ground with those of the people's within the realm; and at a time when men looked with such jealous eyes on the crown, it cannot be supposed that he would in the face of all his subjects, grant less to a part of them than his parliament had so lately declared,

ed, was due to them all; and on the other hand, he was under no necessity to grant more; as he had already settled the constitutional rights of his people at home, he of course adjusted those of the colonies by the same rule. This the charter itself shews us he did, and wherein the constitution of the colony by the old charter was altered in the new, it brings the resemblance of the legislative body it confirmed, nearer to that of the supreme legislature; but no alteration is made in any essential right of the people: and that great privilege of being taxed by their own legislative body, and of choosing their own representatives, has been the same from first to last; the same in the old charter as it is in the new. And happily for the subjects of the *English* constitution; their rights do not depend on any scroll of parchment. Their essential privileges are too deeply rooted in pure and tried reason, to be affected by the wording of a deed. The great liberties of the people of *England*, were wrote in their minds before they were committed even to the venerable statutes, that have transmitted them down to our days; they have been tried by the wisdom of succeeding ages, and are too finely polished by the hands of time ever to be pene-

trated, to be altered or taken away, so long as the constitution itself remains in being.

The legislative body given to the colony, and the privileges continued to the people there, by their present charter, are only an abstract of their general rights as subjects, and made applicable to their situation and distance in conformity to the constitution of the mother country. The obedience every man is required to pay the laws, presupposes his knowledge of them; and this presumption arises from the *possibility* of his having the choice of a representative, in a part of the legislature that made them: and *strangers* and *foreigners* are punishable for offences on the supposition, that they might have known from the people they were amongst, the actions that were criminal before they committed them. But when a body of subjects were about to settle a colony, separated by an ocean of four thousand miles extent, it would have been inconsistent with common sense, to have supposed the people there could continually receive this knowledge of the laws, without the least provision made for their being communicated to them. Therefore it was, that the government of the colonies, from their first settlement, have been
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made legislative for all the purposes of internal government: one of the most essential parts whereof, is that of taxation, the power of disposing of the property of the people, governed by that legislature, whose laws the subjects in the colonies are bound to obey: and they never can be supposed to know any other laws *within* the jurisdiction of their own government, than those that are made by the legislative body placed over them, in which the people have their share, by an actual choice of representatives. And the colonies continuing in the possession of those privileges, and being thus governed, no more leads to their independency, than the possession of the same privileges leads to the independency of *Ireland*. They have equally been accustomed to exercise the right of choosing their own representatives, and of being taxed by them, in the same manner as their fellow subjects in *England*, *Scotland*, and *Wales*; and yet notwithstanding they are no more independent than those, still the supreme legislature regulates every part of the empire, as she thinks fit for the good of the whole: she can restrain their trade, command their ships to enter no other ports than her own, where she lays what duties she pleases; and besides this and much more that she has the right, as well as the power

power to do, the whole *executive part* of the supreme authority is placed in the government of each of her independent colonies; and as a still farther security for their subjection, none of their laws, however necessary, however wanted, can take place amongst them, without being allowed by the crown itself.

But for the house of commons to grant away the property of the people of *Ireland*, or of the people in the colonies, over the heads of their own legislative bodies; is to grant away the property of those the house of commons of *Great Britain* does not represent; it is no part of the extensive privileges of that house. This can only be done, by the representatives chosen by the people who are to pay the duty; and this is one of those sacred rules, by which the supreme legislature itself is bound to act. And by whatever influence this right of the people is invaded, the same influence may with equal justice erect our government into a republic, an aristocracy, or an absolute monarchy. They are all equally inconsistent with the whole spirit of our constitution, and the letter of every law that forms it, unless there are statutes that not only speaks the contrary of those I have seen, but totally invalidates

validates their authority. But till such are made appear, it must be held, that the house of commons can no more grant duties to be levied on the subjects in the *colonies*, than they can from the subjects in *Ireland*; and no pretence can be found to support the exercise of such a power, but what will equally apply to depriving them of any other right as subjects; without their knowledge or consent, or that of the legislative body; whose laws they are bound to obey, and without which, by their distance from the seat of the supreme legislature, it is impossible they should ever be governed. And any attempt to make a distinction between the rights of the subjects in the *colonies* and those of *Great Britain* and *Ireland*, must produce the same effect in the state, as acts of partiality in a parent would in a private family. Discontent, complaints, disunion, must be the consequence in both; and the greatest security for the obedience of the sons, is the justice of the father. An undutiful and turbulent child may provoke the resentment of a wife and good parent: but a state can never be vindictive without being unjust. The laws punish individuals; acts of state respect communities, composed of the innocent and guilty; and if the dutiful, however small their proportion,

tion, are made to partake in the punishment only due to the disobedient, in that case the *best* subjects in an empire, have more cause to think unfavourably of the justice of its supreme authority, than the *worst*. And when the natural rights of guiltless subjects are taken away by acts of state; it has an influence on all the rest; for wherever men see their private rights are injured, their strongest motives of attachment to the government under which they live, are weakened or destroyed; the protection of them being the first motive for men's uniting together under all governments. A little reflection will present us with instances of subjects within the realm, that have risen in opposition to various laws, and appeared in open defiance of the acts of the supreme legislature. But was the punishment due to a few, inflicted upon all the inhabitants of a city, and then extended to a whole county, or a province, it is more than probable we should hear it said in every part of the kingdom, that he who does not cry out against the injustice of such an act, becomes a party in a crime for which there yet wants a name in civil polity. The act of violence committed at *Boston*, if it was with the consent of every man in the city, cannot carry with it a greater degree of criminality, than if the same act had been committed

at *Bristol*, or any other sea port in the kingdom, probably not so much. The unfortunate question that led to the commission of this crime, is an extenuation of it, that could not be pleaded in any part of *Great Britain*. The people of *Boston* think their rights as subjects, invaded by the levying duties upon them, not imposed by the representatives they have chosen for themselves, ever since the first stone of their city was laid: All the people of *New-England*, are of the same opinion as those of the town of *Boston*, and the inhabitants of the whole continent of *America* appear to join in claiming the same right, and every one of the colonies will consider the punishment of *Boston* as done to themselves, and that they have received an injury in return for a claim of justice. One half of this is enough to unite all the people of *America* together as one man, if it was of three times the extent . . . is, and a much slighter attack, on what they consider as their rights as subjects, is sufficient to set all that is evil in human nature at work, and make them hazard any consequences for their redress. And at this moment we have the gloomy prospect of preparations making to enforce obedience on one side, whilst on the other we hear nothing but the demands of justice. And who are the parties in the dispute? A people whose religion,

gion, laws, and language are the same, the common offspring of the same parents, brothers, friends; those who know each others faces are set to contend together, too probably at the sword's point; and for what?—A question of property—Whether those who stand as subjects in the same degree of relation to the constitution of their government, shall equally partake of its rights or not; and after the sacrifice of a thousand lives, the question will be at the same. And shall this dreadful consequence be hazarded, before there has been time to give the coolest and most dispassionate consideration to the constitutional rights of those dependencies? It is not sufficient that they are known in general, or that they are perfectly understood by the finest judges. I believe I shall be justified in saying, that there are thousands in the kingdom, who think the subjects in the colonies have an equal right with themselves to be taxed only by their own representative, by the authority of their own legislative body; and there appears sufficient reason, to think it necessary for the peace of the nation at home, that a little more time should be given for obtaining a clearer view of a question, on which men's minds are so much divided. The unlawfulness of the act committed at *Boston* none can deny, and if reparation is not obtained
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by the regular and due course of justice, more effectual measures would then have the approbation of every good subject. But to make the act of a few, the cause of inflicting a very severe punishment upon all the inhabitants of a city, and then immediately proceed to new modelling the legal constitution of a whole province, and these measures followed with the arm of power to enforce obedience to them, and all this done with a much greater degree of precipitation, than was so lately shewn to an open act of foreign hostility, it is too probable all this will produce effects in the minds of the colonies, that may lead to the worst consequences. There can be no doubt from the hands with whom the power of enforcing submission to these measures is intrusted, but the application will be made with the utmost moderation and tenderness. Still the colonies will think they are to be governed in future by force and not by justice, when they come to see in the journals of the assembly, by whom they think themselves injured in their rights, that they are proceeded against without the evidence that the same assembly, in the very same sessions required, before they thought themselves at liberty to consider as guilty, a single individual within the realm, that demanded
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the right of a subject to trial and conviction, before he was made to submit to any punishment. He that will make the application of this treatment, to any other extensive district of the subjects with whom he may be more immediately connected, will be able to judge the reception it may be expected to meet with in *America*. If the people of *England, Wales, Scotland* or *Ireland* universally thought themselves intitled to a privilege, in common with the rest of their fellow subjects, and instead of having their pretensions examined and fully considered, they were shewn by the example made of a part, that the submission of the whole, under these circumstances of disparity, was absolutely required; the same conduct that might be expected from any one of these divisions of the dominions upon such an occasion, may be looked for in the *colonies*. And all that feel for their fellow subjects must wish, *that more time was given* for a clearer investigation of their rights, before force is used on one hand, and the consequence too much to be expected, of resistance on the other. But till the right of the house of commons, to impose duties on the subjects in *America*, is made appear by arguments of more reasonable conviction, than those of force; the evidence of the laws obliges

obliges me to give my poor suffrage in support of the exclusive right the colonies claim, to be taxed only by the authority of those legislative assemblies, in which the people have representatives of their own choosing, agreeable to the design of those charters and statutes, that gave this right to the common forefathers of all the subjects of the English constitution. And to abridge or take away from any part the rights given to the whole, appears to lead as effectually to weaken and destroy our excellent system, as if the privileges of any other branch of the state was invaded. And in the same degree that any part of the subjects may be obliged to yield up their rights, in the same degree must their motives of union be destroyed. The privilege given to the subjects, of liberty of conscience in the public worship of their maker, is of *eternal* consequence; but next in importance to this, is the people's right to form one branch of the legislature, that has the power of making laws to affect their lives, liberties and estates, and any distinction made in the free enjoyment of those essential rights, must ever have a fatal influence on the harmony and well-being of the state. If the subjects of the same government, may be separately considered, by the districts they inhabit,

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England, Scotland, Ireland, and America are the four grand divisions of the empire. And to a bridge in any of them, the great and general privileges of them all, is to undermine one of the four pillars upon which the empire itself is built. And whoever is for denying to the subjects that inhabit any one of these divisions, a privilege they are entitled to, in common with all the rest, must either mistake the public good, or not intend it. Actions change not their nature with the men that commit them; and any such distinction, must ever be found equally illiberal, impolitic and unjust; and it matters not to which of the four, the rights of equality are denied, it must equally tend to disunite, weaken and distress the whole state. And no pretence can ever justify any interruption to the great privileges of all the subjects, in any one of these divisions of the dominions, and reducing them beneath an equality with the rest. The inhabitants of *England, Scotland, Ireland, and America*, are one people, they are all the free subjects of the same government, and have one common right to all the same privileges; and this without any other diversity in the actual possession, than is necessary to apply them to their several stations. And amongst their many and great privileges, it has been made
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their unalterable inheritance, to have the opportunity of choosing their own representatives, and that all aids to the crown should for ever be considered as the *gift* of the people. That nothing should be taken for the use of the public without the owners consent. That no tax or duty should be imposed or levyed, but of their own grant and good-will, or those whom they have chosen. These rights have been made sacred to the subjects of the *English* constitution by repeated charters, laws and statutes. And the legislature or supreme authority, is bound to dispence justice, and decide the rights of the subjects; by promulgated standing laws, and can never have a power to take the whole or any part of the subjects property without their own consent. This we see by our statutes, was the opinion of Edward III. after he had reigned five and forty years over England. Thus thought Henry VIII. after he had reigned five and thirty years over England and Wales. And after Charles II. had reigned five and twenty years over the whole kingdom, he gave his assent to an act to the same purpose. And after the revolution King William III. confirmed the same rights to all the subjects of the crown. And in all those reigns, both houses of parliament were uniformly

ly of the same opinion, that representation and taxation were the inseparable rights of all the subjects of the *English* constitution. And from the time that the mother-country first sent forth her colonies to *America*, she gave them laws, nearer a kin to the laws of the realm, than the child is to the parent; she gave her colonies the laws themselves, she made them partakers of all the rights of her subjects at home, she suited their government to their distance, and made each colony the *effigies parva* of herself. In this resemblance, the present charter of Massachusetts Bay, granted in 1692, settles the government of that province. And to pursue the conduct of the supreme legislature, we still find them guided by the same principle; by this very rule we see the articles of union settled taxation and representation upon all the people of *England* and *Scotland*. And when his Majesty King George I. and both houses of parliament, declared the dependence of the people of *Ireland* on the supreme legislature of Great Britain, unquestioned was their right of being taxed only by the authority of their own legislative assembly, in which they had the actual choice of representatives. The same is the dependence, the same is the right of the colonies. And if this right of being
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taxed by their own representatives can be taken from the people of *America*, it may be taken from the people of *Ireland, Wales, Scotland & England*. The laws have equally made these united rights the unalterable inheritance of them all, and no pretence can justify the dividing them in any one of these dependancies that will not apply to the rest. The same privileges having been equally given, equally enjoyed, and must for ever remain equally the right of them all. And may the present, and all future questions of right, only be determined by an appeal to reason and justice! and no other arguments used than those that are founded on the laws, statutes and charters, that form the legal limites of every branch of the supreme legislature, and the rights of all its dependencies! May they all continue to possess those rights! May they be preserved inviolate to the latest posterity! And so long as the privileges of each of these dependencies, are equally protected by the supreme legislature, so long must allegiance be their highest interest. The subjects of an empire, however extensive, all possessing the invaluable privileges of the *English* constitution, must ever be united to the supreme authority, and to each other, in the strongest bond of mutual aid. May the

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the great governor of the world, whose providence through such a course of ages, has been the parent of so many advantages to the people of this nation, may He continue to bless them with union and peace! May those that govern, and those that obey, be governed by the laws! May the subjects of every part of the dominions justly esteem their privileges—may they never abuse them! And may those to whom the laborious task of government is committed, receive from the fountain of all knowledge, wisdom to conduct every public measure for the public good! And may the importance or hurry of their great employments, never be able to make them forget, that they are servants removable at pleasure, and accountable to Him who rules over all.

F I N I S:

A
FEW THOUGHTS
ON
S L A V E R Y.

THE three origins of the right of slavery assigned by *Justinian*, is said, first, to arise from captivity in war. The conqueror having a right to the life of his captive, if he spares that, he has then a right to deal with him as he pleases.

Secondly, slavery may begin, by one man's selling himself to another. And, Thirdly, men may be born slaves by being the children of slaves. But all these rights of slavery are proved to be built upon false foundations.* “First, as to the conqueror having a right to the life of his

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* By Judge *Blackstone*.

captive, and if he spares that, has a right to deal with him as he pleases. But this is not true, if taken generally, That by the law of nations a man has a right to kill his enemy. He has only a right to kill him in particular cases, in cases of absolute necessity for self defence. And it is plain this absolute necessity did not subsist, since he did not kill him but made him prisoner. War itself is justifiable only on principles of self-preservation. Therefore it gives us no right over prisoners, but to hinder them from hurting us by confining them. Much less can it give a right to torture, or kill, or even to enslave an enemy when the war is over. Since therefore the right of making our prisoners slaves, depends on a supposed right of slaughter, that foundation failing, the consequence that is drawn from it must fail likewise.

To the second right assigned for slavery, that it may begin by one man's selling himself to another. It is true, a man may sell himself to work for another: but he cannot sell himself to be a slave, according to the idea of negro slavery. Every sale implies an equivalent given to the seller, in lieu of what he transfers to the buyer. But what equivalent can be given for life

life or liberty? The price with the seller himself would devolve *ipso facto* to his master, the instant he becomes his slave. In this case therefore the buyer gives nothing and the seller receives nothing. Of what validity then can a sale be, which destroys the very principles upon which all sales are founded? And as to the third, that men may be born slaves, by being the children of slaves. But this being built on the two former rights must fall together with them. If neither captivity nor contract, can by the plain law of nature and reason, reduce the parent to a state of slavery, much less can they reduce the offspring." It clearly follows, that all slave holding is as inconsistent with any degree of natural justice, as the manner in which the slaves are obtained in *Africa* is contrary to every idea of morality or humanity. Nothing is more certain than that the inducements given to procure slaves has long been, and at this day continues to be the cause of most of the wars amongst the unhappy natives of *Africa*. And the arts that are used, and the temptations that are offered for those people, are the sole cause of all that violence, that spreads horror and desolation over the face of this wretched country, that otherwise might be at peace within itself.

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As a proof of this I shall present the reader with an extract taken from the journal of the surgeon of a ship from *New-York*, on a voyage to the coast of *Africa*. "The commander of the vessel sent to acquaint the king, that he wanted a cargo of slaves. The king promised to furnish him, and in order to do it, set out, designing to surprize some town, and make all the people prisoners. Some time after the king sent him word, he had not yet met with the desired success: having attempted to break up two towns, but had been twice repulsed: but that he still hoped to procure the number of slaves. In this design he persisted, till he met his enemies in the field. A battle was fought that lasted three days. And the engagement was so bloody, that four thousand five hundred were slain upon the spot." This was only the trifling consequence that arose from the *innocent* attempt to purchase one cargo of slaves. But the *harmless* conduct of the gentlemen that carry on this trade, shews itself by a variety of effects amongst our fellow creatures in *Africa*, such as setting one party to fall upon another unawares, and carrying off men, women and children. Kings seizing upon their own people and giving them for the goods that are offered by the traders: Others
of

of the natives employing themselves, whenever the temptation is worth the trouble, to surprize and carry off their own countrymen, going at night without noise, and surrounding lone cottages, and dragging away the defenceless family to the place of sale: Others stealing the little blacks whenever they can find them alone, on the road or in the fields. Our ships receive all that come; the question is only what they are worth; to ask how they came by them would equally affront the trading knowledge of both the *honourable* parties in the bargain. That these are the effects of the trade carried on by the *Europeans* on the coast of *Africa*, no one can deny; but should those who have not had the opportunity of being convinced of the truth, dispute the fact, or think it incredible, that *Christian* states should permit their subjects to be authors of such injustice, cruelty and barbarity, they may find all that is here advanced ready proved to their hands, by men of other nations as well as our own, who upon the spot were witnesses of the truth of what they wrote.*

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* See a Treatise entitled Thoughts upon Slavery, by the Reverend Mr. *Wesley*; and the *unlawfulness* of slavery fully proved, in Mr. *Hargraves's* argument in the case of James Sommerfet a Negro.

The degree of guilt that these *effects* fix upon the *causes* of them, must be left to every humane and honest mind to determine. But guilt it certainly is, and that of the highest kind, whether it is tried by the rules of reason, justice or mercy. And instead of the numbers that commit it being any diminution of the crime; the guilt and the criminals must ever swell in the same proportion. And the *greatness* of the states that permit their subjects to steal, buy or enslave their fellow creatures, can plead nothing in extenuation of the punishment, when weighed in those scales in which all the nations of the earth are only as the dust in the balance. The first consideration is, the proportion of this trade that is carried on by our own nation. Mr. *Anderson* in his history of commerce says, "England supplies her American colonies with about an hundred thousand Negro slaves every year." That is, this number is taken on board our ships, but many die in the voyage, many in what is called seasoning, and many more destroy themselves.

They that have known the joys that spring from freedom must count life in bondage a worthless thing. They alas! have received no foretaste
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of sweet peace within, to alleviate their bitter portion of human woe. They have found no Christian hand to point the mind's eye up to the pure fountain of immortal bliss. No wonder that strangers to all future hope of joy sink into despair, and rather than endure the tyranny of their *enlightened* masters, and wear out painful days and nights under the yoke of slavery, they with the presumption of heathens rush in darkness on a world unknown.

At whose hands shall their lives be required? To whom is all this chargeable? surely to those that are the occasion of it. It is the *Buyers* of slaves that send those disgraces to the human race, to the coast of *Africa* to spread war, horror and death amongst the wretched natives. And so long as the *colonies* and *plantations* find purchasers, *Bristol* and *Liverpool* will find monsters that shall tear the children from the arms of their struggling mothers, and force away the daughter from the cries and tears of a father, whose worthless feebleness and age, denies him the privilege of slavery with his child; and whilst the support of his life is torn away for ever from his strong affections, behold the poor old man bowed to the earth with unutterable grief, and
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his expiring cries ascend to Heaven's high throne in bitter accusations against the robbers of all his comforts! And if we follow the surviving victims cross the Western ocean to *America*, where shall we find the tender pity that can draw the angels falling tear, to blot out the record of your accusing spirit in the world's great court of justice. Shall we hope to find this generous humanity in the colonies? Where is the ground in the plantations that does not bear witness of the cruel tyranny exercised upon those that have been enslaved by violence, whose love of liberty and their country is as great as ever was felt in *English* basties? How inconsistent is it, that the sons of liberty in *America*, should be the authors of the most abject slavery. And hold their fellow creatures in chains of bondage, at the moment they themselves are crying aloud for the liberty of laws that abhor every idea of slavery! O but the colonies exclaim, that the work of the plantations could not be done by white people, and if Negro-slaves were not to be procured the business of the plantations would be at a stand, the whole trade dependent upon them would be lost, and the interest of the planters destroyed! And therefore you give encouragement, and reward all the arts of wickedness

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and violence to make men slaves, because it is necessary to your interest—your conveniency requires it. Was interest and conveniency to be the rule of right, I know no argument that would not conclude as strongly for your paying taxes whether you would or no, because it was the interest—the conveniency of those that laid them upon you. The whole spirit of the laws of the plantations, for the government of the slaves you make, proves the severity with which you rule them, and you say it is necessary to keep them in obedience. But there is not a single plea that you can use in support of those laws, that may not be used with as much justice against yourselves. The whole language of the colonies at this day, teaches us to think it a virtue to resist the power that would illegally deprive you of your property. You make men slaves, and then contend for the reasonableness of your laws for punishing their resistance as the greatest crime. Therefore that very conduct which you make a crime of the deepest dye for a black-man to commit, you hold up as the highest virtue in yourselves to imitate. It is by the actions of men, not their words, that we are taught to know them; and he that makes a slave, or buys a slave, and keeps him such, let him
speak

speak as loudly as he will for liberty, he himself is the author of the worst degree of tyranny. You, the colonies, that are the cause of setting brother to fight against brother in *Africa*, look back to the just awards of providence recorded in the history of ages past, and fear lest your sons in *America*, should be witnesses of a punishment suited to their father's crime. Are you taught to believe that HE who rules above is a respecter of persons? And that the CREATOR of all things is not the common father of mankind? If this is taught and believed in *America*, then your conduct is consistent with your creed, and you may be expected to go on in making riches and slaves, and rule the tyrants of your fellow creatures, and chastise their love of liberty with the iron hand of power. But if you believe it true, that HE who made you has said, "Thou shalt neither vex a stranger nor oppress him. If thou afflict them in any wise, and they cry at all unto me, I will surely hear their cry, and my wrath shall wax hot, and I will kill you with the sword." If you believe this, then you may think it your highest interest to allow that liberty you yourselves would wish to enjoy, and no longer enslave the sons of *Africa*, lest your sons in *America* should be visited with the tyranny their fathers shewed.

Shall

SHALL we now follow the course of the setting sun, till his indignant beams dart down upon the blushing East, where new scenes of guilt and woe are painted by the rapacious hands of *British* subjects, who bid defiance to every rule of natural justice, and in the face of Heaven violate all the laws of humanity. Unfortunately for the countries of the East, and for the cause of truth, that the evidence of the facts have chiefly come through the hands of the interested, the accused, or the guilty themselves; and have been rendered so voluminous, as to make it a matter of no small difficulty to draw any plain and clear conclusion from them. But certain it is, that the *English* subjects were first received as merchants into the countries of the East, and allowed by the princes the privilege of trading with their subjects, and thus they continued till they were greatly increased in number, wealth and power; and as occasion offered, they joined themselves to the disaffected natives; till by intrigue and violence they acquired an influence over the prince who had received them into his dominions. Soon after this they began to *trade* in war, and when the numbers with which they were joined, added to the ability of superior skill in commanding, rendered the strongest side doubt-

doubtful, the prince's fears then seconded their demands of wealth. With this object in their view, they have been employed by turns both by the prince that possessed and him that aspired to the throne. But which ever side they took, their motive was the same. Gain was their object—for this they fought—for this they negotiated. At the commencement of the late war in Europe, this mode of acquiring eastern treasure was improved into a regular system, and ever since has been carried on with almost equal *honour* to the invention and conduct of the various commanders in *India*. The prince that found nothing but money could keep him on his throne, was induced to give these bold intruders one half of his riches to bribe them to protect the other. When this was done, they remained his friends or foes as suited their future interest best. And when the treasures of the prince failed to gratify them with present wealth, for their aid or forbearance, they then did not think their interest safe, unless they were intrusted with collecting the revenue that was to reward them. And when their avarice had exhausted the ability of the subjects, then the strangers were to be pleased with the *territorial possession*. And when their thirst of gain had drained this fountain, and art and violence could

no longer find new funds of wealth, a more effectual way was devised to obtain it from the people, by engrossing the supplies of life; then indeed the natives were cured of their stubbornness. When the *English* had got possession of their *salt, beetle-nut, tobacco* and *rice*, the half starved *Indian* was forced from home with hunger, and to bring in his trembling hand what rapine had left him to offer, for just so much food as he was allowed to have for it. And *Bengal* bore witness of their bad pennyworths by its expiring thousands. But here the pangs of humanity arrest my thoughts, and in the anguish of my soul I draw the curtain before these *British* performers of Indian tragedy.

The next scene presents us with their appearance on the *English* stage. Here we are told that the revolutions of states are not to be tried by the rules of school morality. At present they stand acquitted and possess their honest fortunes and their *honours*, and the government of their country has become their protectors, and approved their conduct by opening its treasury to receive a division of the glorious acquisition.

Rome was made the scourge of cruel *Carthage*,
but her unbounded avarice transferred the guilt
and

and treasure to herself, and she in her turn felt the punishment she inflicted. With the tide of foreign wealth, luxury flowed into their country: and though learning and the sciences were cultivated and flourished among them, yet they became degenerate and corrupt, and vice encreased with their wealth and empire. The example of the state introduced the insatiable desire of riches among the people, and this was followed with the decay of probity, and the love of their country was changed into faction and private interest; till by degrees *Roman* greatness was levelled with the ground!

And we are not left in the dark to form vague conjectures of the consequences of the conduct, of any of those societies into which the inhabitants of the earth have been divided. Every page of the sacred and common history of mankind, bears testimony of the infinite wisdom and justice of the great Governor of the world. Wherever we turn our inquiries after the whole race of Adam, we find the people of every nation rising in every step to power, greatness, and duration, by temperance, virtue and public justice: as luxury, vice, and violence accompany every stage of their decline. And this proportioned with such evident exactness; that

that the history of every country is continually saying to the thinking mind, **THE HAND THAT GOVERNS US IS DIVINE.** And whenever we see public injustice and oppression, pass authorised under the sanction of a state; we must expect the decay and distress of that state; with the same degree of certainty as we look for harvest from the seed time, unless we wrap ourselves up in total darkness and unbelief of all that has passed on earth. As sure as there is a God, he must delight in virtue, and as surely does he reward it: and vice and injustice must be his abhorrence. With individuals indeed, many are the instances of prosperity and pomp attending the rich robber to his grave. And what the world calls misfortune and affliction; as often befalls Heaven's first favourites and the best of men, for these give mankind occasion to exert their hidden strength, and throw out into practice virtues that shun the day and lay concealed in prosperous ease: and a life of sorrow often ends in the most exalted bliss. But the combined measures of communities and states, not extending beyond an earthly duration, must on earth receive their reward. All the power of the *Roman* empire, could not preserve itself from the effects of its own injustice and oppression. And we see *Italy*,

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the garden of the earth, and the centre of that most powerful state; turned into the dwelling place of poverty and slavery, to vindicate the honour of the divine government, that mankind might stand in awe of HIM that reigns above. And the seat of that empire remains at this day a monument to teach surrounding nations wisdom and mercy. The plain rules of right and wrong, given to mankind by the world's great Legislator are still in force. Injustice; oppression and tyranny change not their nature by passing under the sanction of a *Roman* or a *British* senate. The crime is the same; and the punishment annexed to it; whether it is committed under the light of the rising or the setting sun. The state that authorises the plundering of *Asia*, and publicly honours the robber, and receives the spoil into its treasury; must be as guilty as the state that did the same at *Carthage*. And to permit the people of *Africa* to be enslaved; and ruled with the rod of tyranny in *America*; must appear the same to the judge of all the earth at this day, as the same actions did when the *Roman* power was as great as that of *Britain*. Every plea of ignorance is cut off by an hundred examples before us, of which that of *Rome* bears but its single

single testimony to the immutability of divine justice, in the government of the world. And for the British state to authorise and persist in the commission of the same crimes, is to insure the same punishment with a certainty as indubitable, as if it had already taken place. Unless we can suppose a greater degree of obedience to the everlasting rules of justice, was required of heathen nations, than is now to be expected from those to whom the Almighty, at an inestimable expence, has been pleased to reveal his purer laws. But if we believe it to be His great design, to give nothing in vain, then we must conclude, a suitable regard is required of those nations to whom he has given the highest knowledge of his will. And so far as the maxims of Christianity are superior to the finest system of heathen morality, so far ought the justice and mercy of a Christian state, to exceed that of the most enlightened heathen nation. And as the divine law annexes blessings as the sure reward of obedience, with equal certainty must disobedience draw its unavoidable consequences after it. The best known histories from Moses's time to the present, give sufficient grounds to believe, that public calamities must sooner or later be the sure reward of national disobedience

to the laws of the Almighty. And tyranny and oppression in states always seem to have been followed by plagues for their punishment, ever since *Israel* was enslaved by the *Egyptians*. "They made their hearts as an adamant stone, lest they should hear the law, and the words which the Lord of hosts hath sent in his spirit by the prophets; therefore came a great wrath from the Lord of hosts." And the government of any nation, that authorises crimes to be committed by its subjects, on the people of other nations, sets itself in opposition to the Governor and the Judge of all the earth, and bids defiance to the laws of the Most High—Laws too plainly made known to be misunderstood, too frequently executed upon the offenders against them, to make either the crime or the punishment admit of the smallest degree of doubt or uncertainty. And we must utterly disbelieve the testimony of all history, or totally mistake its highest meaning if we do not believe, where injustice, oppression and cruelty are allowed and approved by the standing measures of a state, that it must become weak, divided and at length enslaved, as the natural consequence of its own guilt, and the sure effect of divine justice. The merciful care of the Creator is over all his works

works. HE is the father of all the children of men; and to whatever people or nation he has given wisdom, strength and power, he will not allow them to enrich themselves by the oppression and slavery of their fellow creatures in any other part of the earth. His commands not only require the obedience of individuals, but are equally binding on the conduct of nations. His laws are as universal as his empire.

Wide as the world is his command,

Vast as eternity his love ;

Firm as a rock his truth must stand,

When rolling years shall cease to move.

If more justice and mercy can be expected from the people of one nation than another, it must be from those he has most favoured with the clearest discovery of his will. But notwithstanding earthly states must on earth receive their doom,—the reward of their measures, yet he ever waits to be gracious, and old age is unknown to the body politic. The state that is virtuous will be ever young. A nation that is governed by a manly and an honest policy, and whose measures spring from justice, must be united and at peace with itself, and prosper under the divine protection. The world's great Lawgiver will ever smile on his obedient sons, and that which he delights in must be happy.

F I N I S.

The first part of the paper is devoted to a general
discussion of the subject, and to a description of the
method employed in the investigation. The results of the
experiments are given in the following tables, and
discussed in detail in the concluding part of the paper.

The first table shows the results of the experiments
concerning the effect of the temperature on the
rate of the reaction. It is seen that the rate
increases with increasing temperature, and that
the effect is more pronounced at higher temperatures.

The second table shows the results of the experiments
concerning the effect of the concentration of the
reactants on the rate of the reaction. It is seen
that the rate increases with increasing concentration,
and that the effect is more pronounced at higher
concentrations.

The third table shows the results of the experiments
concerning the effect of the catalyst on the rate
of the reaction. It is seen that the rate increases
with increasing concentration of the catalyst, and
that the effect is more pronounced at higher
concentrations.

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ted and just weight that juries have had in all legal questions relative to property, makes the determinations of the common law courts, from that period to the present time, not only contain the opinions of our judges, but the unanimous voice of the jurors upon so great a variety of cases, relative to shipping, and the settling of losses and averages, in insurances on ships and goods, that it is probable, many new occurrences can hardly arise in those branches of business wherein it will not at once appear by some article in this System, both what the law is, and the rules laid down and agreed to, that make the present usage and custom of the merchants of *London*.

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Character from the Monthly Review.

“ To record the transactions of our own times, is a task of all others the most difficult. The Historian, in this case, hurried away by his passions, or misled by an information which he fancies to be just, frequently retails fiction for truth, and becomes the panegyrist of a faction. The monuments on which he builds his narration are the productions of writers, who have no other view but to defend,

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send, or condemn, the measures of administration, or of the people. It is only, perhaps, after some ages have rolled away, and after party prejudices are lost, that the events of the present reign will be recorded with fidelity and exactness; and that history, while it shall bestow its approbation on those worthy patriots and statesmen who have acted from public and constitutional views, shall censure, with candour and impartiality, those corrupt ministers who have proceeded only on venal and arbitrary principles.

“The author of this work seems to have been sensible of the force of such general remarks as these. He pretends only to the merit of having collected all the different arguments and reasonings which have been used for and against administration, and of having presented them under one view to his reader. We must do him the justice, however, to observe, that he has frequently accompanied these arguments and reasonings with remarks which are extremely acute and ingenious. He appears to be intimately acquainted with what the Authors of antiquity have written concerning liberty and government; and perhaps he has, on several occasions, employed their sentiments to enrich his volume. We should imagine, at the same time, that he may have imbibed from them too large a proportion of that love of equality and independence, which, though of the greatest advantage in a pure republic, is not altogether so suitable to the genius and spirit of a limited monarchy. But however much we may be disposed to differ from our Author in some particulars, our candour leads us to acknowledge, that he has every where expressed himself with strength and perspicuity, and that his eloquence has given charms to topics which are naturally harsh and unpleasant. His Review of the late war discovers a capacity for historical narration; and the work itself deserves to be read with attention, both on account of the importance of its subject, and of the ability with which it is written.”

The Reviewers, after reciting our Author's Examination of the last treaty of Peace, conclude thus:

“The same good sense and spirit which appear in this extract are to be found, in general, in the performance before us; and we cannot close this article without remarking, that it is perhaps, on the whole, the most valuable of those political compositions which have lately been offered to the public.”

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