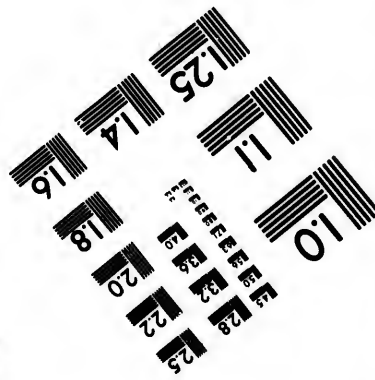
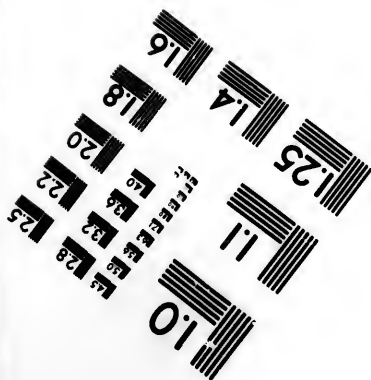
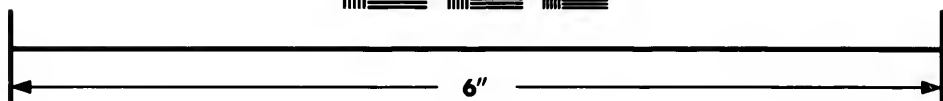
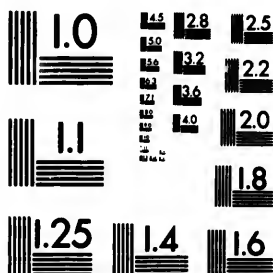


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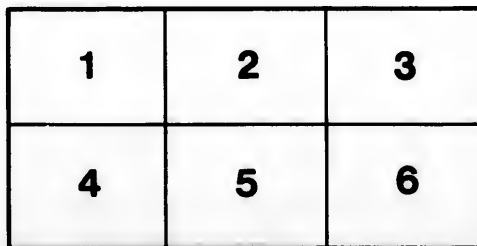
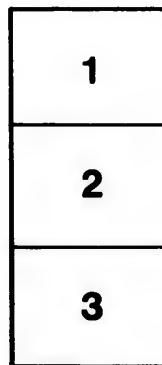
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T H E
ADMINISTRATION
O F T H E
C O L O N I E S.

(THE FOURTH EDITION.)

WHEREIN THEIR
RIGHTS AND CONSTITUTION

Are discussed and stated,

By THOMAS POWNALL,

Late Governor and Commander in Chief of his
his Majesty's Provinces, Massachusetts-Bay and
South-Carolina, and Lieutenant-Governor of
New-Jersey.

Pulchrum est benefacere Reipublicæ, etiam benedicere haud absurdum est. SALLUSTIUS.

L O N D O N :

Printed for J. WALTER, at Homer's Head,
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P29

TO THE RIGHT HONOURABLE

GEORGE GRENVILLE, Esq;

S I R,

WHEN I first published my opinions upon the administration of the Colonies, I addressed the book to you. You was then minister in this country, and had taken an active and leading part in the administration of those affairs. I did not by that address dedicate, as is the usual phrase, my opinions to the minister, for our opinions differed on several points: But as disputes upon a question, pregnant with the most dangerous consequences, began to be agitated between the minister of this country and the Colonists, which I saw must soon extend themselves in contentions

with parliament itself: As I saw a spirit of suspicion and alarm arising, a temper of ill blood infusing itself into the minds of men; I endeavoured to obviate these mischiefs, by marking in that address, that, as there were neither arbitrary intentions on one hand against the liberties of the Colonies, nor rebellious designs on the other against the just imperium of government; so there was a certain good temper and right spirit, which, if observed on all sides, might bring these matters of dispute to such a settlement as political truth and liberty are best established upon.

You had conceived, that government hath a right to avail itself in its finances, of the revenues of all its dominions, and that the imposing taxes, by parliament, for the said purpose, was the constitutional mode of doing this. The Colonists who were not represented in parliament by knights and burgeses of their own election, “ did apprehend, they had reason to fear some danger of arbitrary rule over them, when the supreme power of the nation had
“ thought

“ thought proper to impose taxes on his
“ Majesty’s American subjects, with the
“ sole and express purpose of raising a re-
“ venue, and without their consent.”

Parliament had, by a solemn act, declared that it hath a right to make laws, which shall be binding upon the people of the Colonies, subjects of Great Britain, in *all cases whatsoever*,—while the Colonists say, in *all cases which can consist with the fundamental rules of the constitution*; by which limitation, they except the case of taxation, where there is not representation. Hence the Colonists have, by many, been deemed factious, undutiful and disloyal, and even chargeable with treason itself.—

I had been sufficiently conversant in these affairs, although neither employed nor consulted in them, since I left America, to know that these alternate charges were false and groundless; that there were neither arbitrary intentions on one hand, nor seditious views on the other. As therefore, by my address, I meant to do justice to your principles, which I knew to be those of

peace and government established on political liberty,—so I took that occasion, as I will ever esteem it a duty to do, to bear my testimony to the affection which the Colonists ever bore to the mother country, to their zeal for its welfare, to their sense of government and their loyalty to their sovereign, as also how much they have merited from this country, and how much they deserve to be considered by it, in order to put these matters of dispute on a footing of reconciliation, fair discussion and equitable settlement.—

It is great pity that questions of this nature were ever raised, * “ for, it is a very “ unsafe thing in settled governments, to “ argue the reason of the fundamental constitutions.”—But when contrary propositions are alternately brought forward by the representatives of two people, as the avowed principles of their respective constituents; when an inferior government, which invariably acknowledges its dependence on a supe-

³
* Comm. Journal 1672.

rior and supream government, thinks it hath a right to call into question some particular exertions of power in that government, by rules which limit the extent of that power, it is absolutely necessary to decide such question, or to give such explanations of the matter, that it may cease to be a question;— for so long as it continues in doubt, the parties will alternately charge each other with arbitrary principles, and a spirit of sedition, with tyranny and rebellion;—and frequent injurious acts of violence, which numberless events will ever give occasion to, must necessarily be animated with a spirit too nearly allied to the one and to the other. —The matter is in that state that it ought to come before parliament, it must, it will,— it is necessary to the support of government that it should;—it is necessary to the security of the nation and its interest;—it is necessary to the peace, liberties, and constitution of the Colonies; it is necessary to the safety of ministers.

Many matters therefore, the publication of which I had suspended, while I thought that

that this question might be waved, or some way compromised, I now publish in this edition. I continue my address, Sir, to you, now you are no longer minister, nor perhaps ever likely to be. I address myself to the private country gentleman, who will always have a great share in the business of his country;—to Mr. George Grenville, as to one who hath, and always will have great interest, lead and authority in parliament, from an opinion really and deeply grounded in the minds of the most serious of his countrymen, that, while for the sake of the peace and liberties of the whole, he means to support the constitutional powers of government in the crown; so is he equally, by principle, determined, as by abilities able, to guard the civil rights of the subjects with a peculiar regard to, and management of, their interests in their property.

This American question, in which liberty and the rights of property are so deeply engaged, must now come forward. From the part which you have already taken, you must still bear a considerable part in the debates

bates and consultations which will be held upon it. I therefore address, to your most serious consideration, that state of this business which the following book contains; nor will I despair of your assent to what so firmly establishes the rights of property, on the foundations of liberty, by an equal extension and communication of government, to wheresoever the people and dominions, having these rights, do extend. In the matters which I propose, I speak my own sentiments, not yours. I address them to your serious consideration, as I do to every man of business in the nation, with an hope that from conviction of the justice, policy and necessity of the measure, they may become the general sentiments of the government, and of the people of Great Britain. From the same sentiments, and with the same view of general peace and liberty, I could wish to recommend the same propositions to the Americans. Nor would I despair of their assent to things, were there no jealousies of, no prejudices against men. I am convinced that these maxims are true in theory, and do sincerely believe, that they are the only
prin-

principles, by which the peace, the civil liberty, and commercial prosperity of the British dominions can be maintained and supported. I am no Partizan. I do not palliate the errors of Great Britain. I do not flatter the passions of America. My zeal and many services towards the one, have appeared in the effect of those services; and my affection to the other, if it be not already known, will be seen, as, under the accident of a certain event, I mean to end my days there in a private character.

I have, in this present edition, gone into the discussion of this matter, *as it lies in fact*, and as it hath, at the first settlement of the Colonies, and in the different periods of their progress, *existed in right*, established on such fact. I have stated the fact, and the right, in hopes to point out what is the true and constitutional relation between Great Britain and the American Colonies, what is the precise ground on which this dangerous question ought to be settled: How far they are to be governed by the vigour of external principles, by the supreme superintending power of the mother country: How far,
by

by the vigour of the internal principles of their own peculiar body politic: And what ought to be the mode of administration, by which they are to be governed in their legislative, executive, judicial and commercial departments, in the conduct of their money and revenues in their power of making peace or war.—

Analyzing by the experience of fact, this inquiry,——I mark the false policy which derives by necessary consequence from stating the Colonies, as subject only to the King in his feignoral capacity.——I show also that no precedents can be drawn from that period, when the two houses of parliament assumed the exercise of the sovereignty, and considered the Colonies *as their subjects*. —I show how the Colonies ought to be considered as parts of the realm, and by showing the perplexities in reasoning, and the dangerous consequences in practice, which attend the stating of the Colonies as without, and no part of the realm, at the same time that they are stated as subjects of the King, Lords and Commons collectively taken as sovereign. I mark the false ground and superstructure of that position.

In

In the course of this reasoning, while I state the rights of the Colonists, as those of Englishmen, to all intents and purposes; while I state *how* the Colonies have been administered, as distinct, free communities, and *how* they ought still to be administered, if they are not united to the realm.—I show that the Colonies, although without the limits of the realm, are yet in fact, of the realm; are *annexed*, if not yet *united* parts of the realm; are precisely in the predicament of the counties Palatine of Durham and Chester; and therefore ought, in the same manner, to be *united* to the realm, in a full and absolute communication and communion of all rights, franchises and liberties, which any other part of the realm hath, or doth enjoy, or ought to have and to enjoy: in communication of the same burthens, offices, and emoluments, in communion of the same foederal and commercial rights, in the same exercise of judicial and executive powers,—in the same participation of council.—And that therefore, in the course and procedure of our government with the Colonies, there must arise a duty

duty in government to give, a right in the Colonies to claim, a share in the legislature of Great-Britain, by having Knights and Burgesses of their own election, representing them in parliament.

It makes no difference in the matter of the truth, whether the government of England should be averse to the extending of this privilege to the Colonies, or whether the Colonies should be averse to the receiving of it:—Whether we, from pride and jealousy, or they, from fears and doubts, should be repugnant to this union. For, whether we reason from *experience* and the authority of *example*: Or whether we consider the policy, justice, and necessity of the measure, the conclusion is unavoidably the same; the proposition invariably *true*. That *the British isles, with our possessions in the Atlantic and in America, are in FACT, UNITED INTO A ONE GRAND MARINE DOMINION: And ought therefore, by policy, to be united into a one Imperium, in a one center, where the seat of government is. And ought to be governed from thence, by*

an

an administration founded on the basis of the whole, and adequate and efficient to the whole.

I have not stated the necessity of this measure, for reasons which cannot but be obvious to any prudent man; but I have ventured to affirm, that such is the actual state of the system of the British dominions, that neither the power of government, over these various parts, can long continue under the present mode of administration; nor the great interest of commerce, extended throughout the whole, long subsist under the present system of the laws of trade.

As I do, from my best judgment, sincerely believe, that a general and intire union of the British dominions, is the only measure by which Great Britain can be continued in its political liberty, and commercial prosperity, perhaps in its existence; So I make no scruple to averr, that if this measure be not adopted in *policy*, as it really exists in *fact*, it will soon become the duty of the several disunited parts, to look narrowly

rowly to, and stand firm in, the maintenance of their undoubted rights in that state and relation, in which the administration of government shall hold them. As I have pointed out the mode, how government may pursue its duty, consistent with the fundamentals of the constitution; so have I suggested, through every step, how the American may fortify himself in these rights, consistent with his alliance.

When I had first an opportunity of conversing with, and knowing the sentiments of, the * commissioners of the several provinces in North America, convened at Albany; of learning from their experience and judgment, the actual state of the American business and interest; of hearing amongst them, the grounds and reasons of that *American union* which they then had under deliberation, and transmitted the plan of to England: I then first conceived the idea, and saw the necessity of a general

* Appointed by their respective provinces, to attend a congress at Albany, in 1754, to which they were called by the crown.

British union. I then first mentioned my sentiments on this subject to several of those commissioners,—and at that time, first proposed my considerations on a general plan of union,—I had the satisfaction to find many of the measures, which I did then propose, adopted; and the much greater satisfaction of seeing the good effect of them: But this particular measure was at that time, I dare say, considered as theory and vision, and perhaps may, at this time, be thought so still: but every event that hath since arisen, every measure which hath since been taken, through every period of business in which I have been concerned, or of which I have been cognizant, hath confirmed me in my idea of the state of things, and of the truth of the measure: At this period, every man of business in Britain, as well as in America, sees the effect of this state of things, and may, in future, see the necessity of this measure. The whole train of events, the whole course of business, must perpetually bring forward into practice, and necessarily in the end, into establishment—*either an American or a British union.*—There is no other alternative,
the

the only consideration which remains to every good man, who loves the peace and liberties of mankind, is whether the one or the other shall be forced into existence, by the violence of parties, and at the hazard of events; or whether by the deliberate legislative advice of the representative of all who are concerned.—

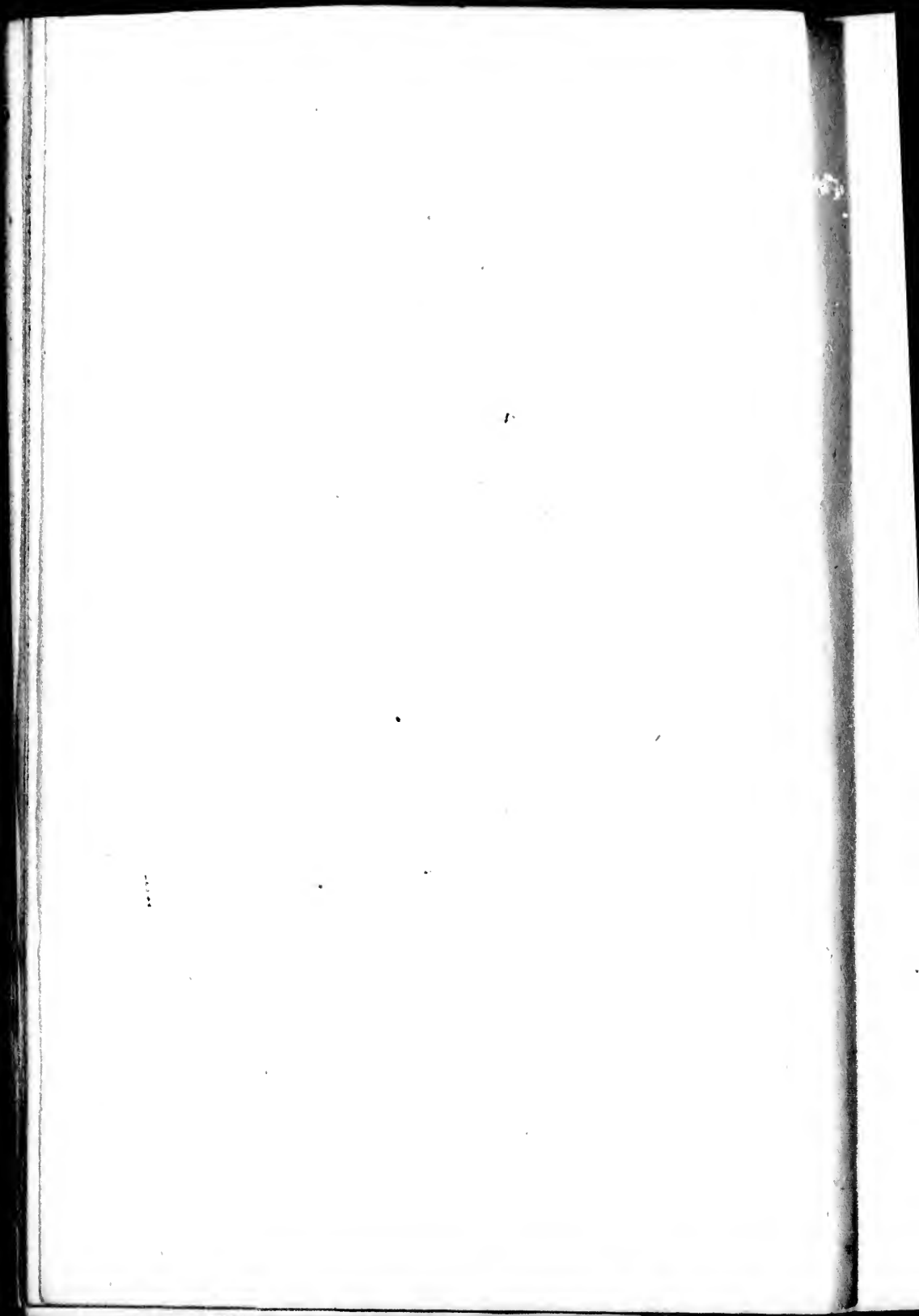
May both the Briton and the American take this consideration to heart: and, whatever be the fate of parties and factions, of patriots or ministers, may the true government of laws prevail, and the rights of men be established in political liberty.

With the highest esteem and regard, I have the honour to be,

Sir,

Your most obedient humble servant,

T. POWNALL;



ADVERTISEMENT.

THAT I may obviate those prejudices by which many people might be led to think, that the doctrines and reasonings contained in the following book are novel, and theories of imagination: That I may at least crave a suspension of those opinions, from whence many people pronounce, that the application made by the Colonies, to deprecate the levying of taxes, when imposed by parliament, is unconstitutional and unprecedented: I have here inserted, as published by Daniel King in 1656, the record of a like application from the county palatine of Chester in the like case. With the King's answer, and ordinance made out in form. Wherein not only similar reasonings are exhibited, but a precedent also is holden forth. By which, government, on one
a 3 hand,

hand, may see, that this county Palatine was exempted from taxes laien by parliament, while the said county had not Knights and Burgeſſes of their own election, to represent them in parliament : and wherein the Colonies may see on the other hand, by purſuing the precedents relative to this county, that when it was thought proper and adviſeable to ſubject it to taxes impoſed by parliament, the privilege of ſending Knights and Burgeſſes to parliament was the proper and conſtitutional remedy ſought and obtained.

Copy of a Supplication, exhibited to King
Henry VI. by the inhabitants of the
County Palatine of Chester.

To the KING, our Sovereign Lord.
Anno D. 1450.

MOST Christian Benigne, and Gra-
cious King; We your humble sub-
jects, and true obaifant liege people, the
Abbots, Priors, and all the clergy; your
Barons, Knights, and Esquires; and all the
Commonalty of your County Palatine of
Chester, meekly prayen and beseechen your
Highness: Where the said county is, and
hath been a county palatine, as well before
the conquest of England, as continually
since, distinct and separate from the crown
of England: within which county, you, and

all your noble progenitors sithen it came into your hands, and all rulers of the same, before that time, have had your high courts of parliment to hold at your wills, your chancery, your exchequer, your justice to hold pleas, as well of the crown, as of common pleas. And by authority of which parliament, to make or to admit laws within the same, such as be thought expedient and behovefull for the weal of you, of the inheritors, and inheritance of the said county. And no inheritors or possessioners within the said county, be not chargeable, lyable, nor have not been bounden, charged nor hurt, of their bodies, liberties, franchises, land, goods, nor possessions, within the same county, [**but by such laws as they*] have agreed unto. And for the more proof and plain evidence of the said franchises, immunities,

* The above is a literal transcript of the Record as published by Daniel King. I have not the means of consulting the original, there is certainly some omission or default in the copy. I have inserted the words, *but by such laws as they*, printed between hooks. I see no other way of making sense of it. I have also in the same manner between hooks inserted the words *be wrong*.

and

and freedoms; The most victorious King William the conqueror your most noble progenitor, gave the same county to Hugh Loup his nephew, to hold as freely to him and to his heirs *by the sword*; as the same King should hold all England *by the crown*. Experience of which grant, to be so in all appeals and records, out of the same; where, at your common-law it is written, *contra coronam et dignitatem vestram*: It is written in your time, and your noble progenitors, sith the said Earldome came into your hands, and in all Earls times afore. *Contra dignitatem gladii cestræ*. And also they have no Knights, Citizens, ne Burgessees ne ever had, of the said county, to any parliament holden *out of the said county*; whereby they might, in any way of reason be bounden, And also ye and your noble progenitors, and all Earles, whose estate ye have in the said Earldome; as Earles of Chester, sith the conquest of England have had within the same; *regalem, potestatum, jura regalia, prærogativa regia*. Which franchises notwithstanding, there be your commissions directed out to several commissioners of the same county, for the levy of subsidy, granted by
† the

the commons of your land, in your parliament, late begun at Westminster, and ended at Leicester, to make levy thereof within the said county, after the form of their grant thereof, contrary to the liberties, freedoms, and franchises, of the said county, and inheritance of the same, at all times, before this time used; that please your noble grace, of your blessed favour, the premises graciously to consider: and also, how that we your beseechers, have been as ready of our true hearts, with our goods, at times of need, as other parts of your lands; and also ready to obey your laws and ordinances, made, ordained, and admitted within the said county, and if any thing amongst us [*be wrong,*] ready to be reformed by your Highness, by the advice of your counsel, within the said county; and hereupon to discharge all such commissioners of levy of the said subsidy within the said county, and of your special meer grace, ever, to see that there be never act in this parliament, nor in any parliament hereafter, holden out of the said county, made to the hurt of any of the inheritors, or inheritance of the said county,

of their bodies, liberties, franchises, goods, lands, tenements, or possessions, being within the said county. For if any such act should be made, it were clean contrary to the liberties, freedoms, immunities, and franchises of the said county. And as to the resigning of such possessions, as it hath liked your Highness, to grant unto any of your subjects: all such as have ought of grant within the said county, will be ready to surrender their letters pattents, which they have of your grant, for the more honourable keeping of your estate; as any other person or persons within any other part of your land; or else they shall be avoided by us, under your authority committed unto us, within your said county. And furthermore, considering that your beseechers are, and ever have been true, dreading, obaisant, and loving unto you, and of you, as unto you; and of our most dowed Sovereign Lord, our Earle and natural Lord: We the said Barons, Knights, Esquires, and Commons, are ready to live and die with you, against all earthly creatures; and by your licence, to shew unto your Highness, for the gracious expedition of this our most behoveful
peti-

petition. And we the said Abbots, Priors, and clergy, continually to pray to God for your most hounerable estate, prosperity, and felicity, which we all beseeke God to continue, with as long life to reign, as ever did prince upon people; with issue coming of your most gracious body, perpetually to reign upon us for all our most singular joy and comfort.

The Kings will is, to the subsidy in this bill contained: Forasmuch as he is learned, that the beseechers in the same, their predecessors, nor ancessors, have not been charged afore this time, by authority of any parliament holden out of the saide county, of any quindisine, or subsidy, granted unto him or any of his progenitors, in any such parliament; That the beseechers, and each of them be discharged of the paying and levy of the said subsidy. And furthermore, the King willeth, that the said beseechers, their successors and heirs, have and enjoy all their liberties, freedoms, and franchises, as freely and entirely as ever they, their predecessors or ancessors in his time, or in time of his progenitors, had and enjoyed it.—

Pro-

Profecuta fuit ista Billa ad Dominum
Regem per Johannem Manwaring
Militem, Radulphum Egerton,
Robertum Foulshurst, Robertum
Leigh de Adlington, et Johannem
Needham Anno. R. R. H. 6.
post conquestum Anglie viceffimo
nono.

By the King.

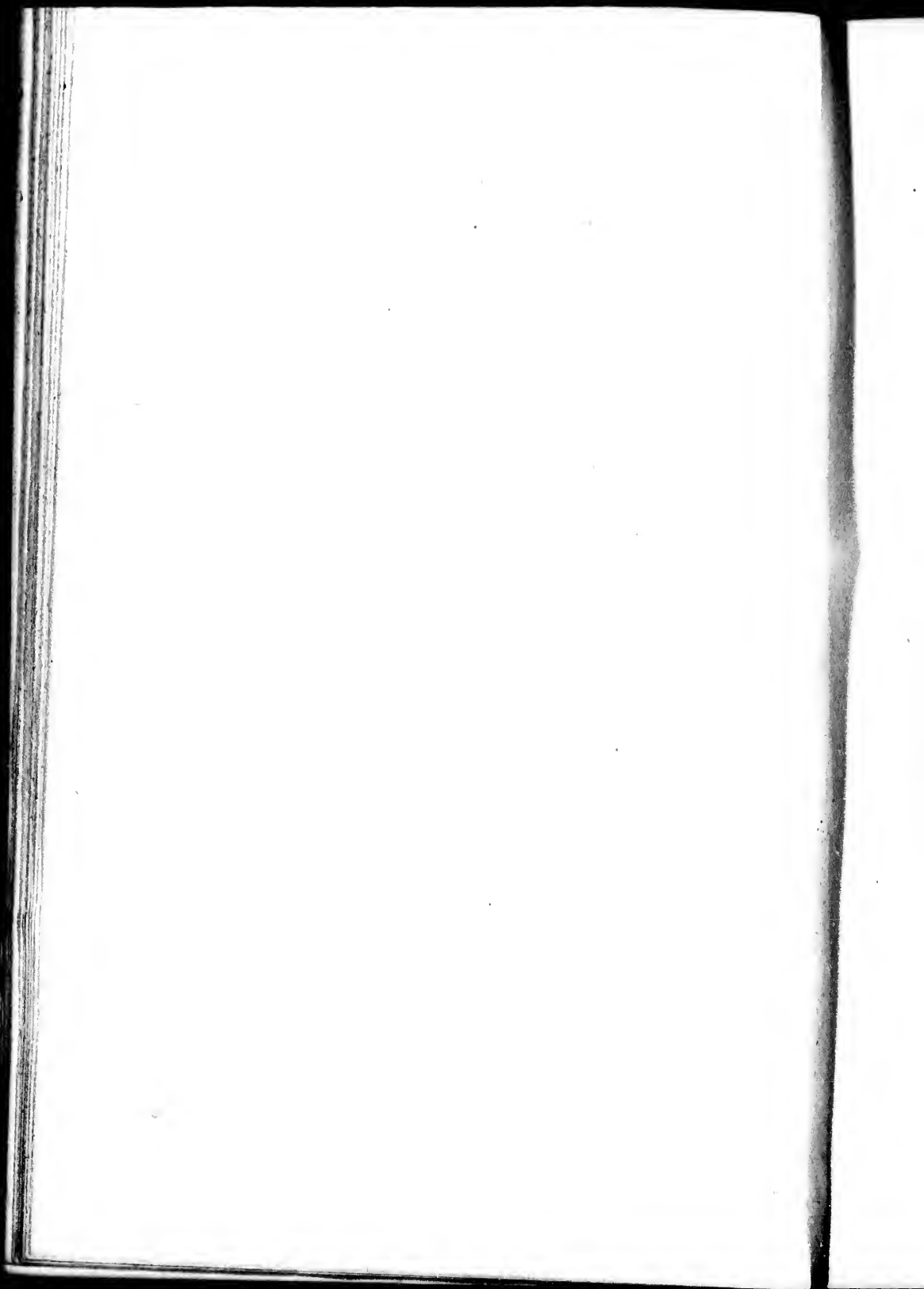
TRUSTY and wellbeloved in God,
and trusty and well beloved we greet
you well. And forasmuch as we have
understanding, by a supplication presented
unto us, on the behalf of all our liege people
within our county palatine of Chester: How
their

their predeceffors nor ancestors, have not been charged before this time, with any fifteenth or subsidy granted unto us, or any of our progenitors, by authority of any parliament, holden out of our said county, for which cause, we have charged our chamberlain of our said county, to make our writs, directed to all our commissioners, ordained for the assessing and levy of the subsidy last granted unto us: Charging them to surcease of any execution of our letters of commission, made unto them, in that parties. Wherefore, according to our commandment late given by us, unto our said Chamberlain: We will that ye in our behalf, open and declare unto all our said liege-people: How it is our full will and intent, that they be not charged with any such grant, otherwise than they, their predeceffors and ancestors have been charged afore time. And that they have and hold, posside, and enjoy, all their liberties, freedoms, and franchises, in as ample and large form, as ever they had in our, or any of our said progenitors days. And that ye
fail

fail not thereof, as we trust you, and as you deem to please us.

Given under our signet of the Eagle, at our pallace of Westminster the eighth day of March, Anno. R. R. H. 6. Viceffimo Nono.

To our trusty and wellbeloved in God, the Abbot of our monastry of Chester; and to our trusty and wellbeloved Knights Sir Thomas Stanley, our Justices of Chester, Sir John Manwaring, and to every of them.



THE
ADMINISTRATION
OF THE
C O L O N I E S.

THE several changes of territories, which at the last Peace took place in the Colonies of the European world, have given rise to a new system of interests, have opened a new channel of business, and brought into operation a new concatenation of powers, both commercial and political.—This system of things ought, at this crisis, to be actuated by a system of politics, adequate and proportionate to its powers and operations : But while we find not any one comprehensive or precise idea of the crisis now arising, we see, that all which is proposed as measures, is by parts, without connection to any whole, by temporary expedients,

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pedients, and shiftings off of present dangers, without any reference to that eventual state of things, which must be the consequence of such measures, and such expedients; much less by reference to that eventual state of things, by which the true system ought to be framed, and actuated.

This state of the business has tempted me to hazard my sentiments on the subject. My particular situation in time past gave me early opportunity of seeing and observing the state of things, which have been long leading to this crisis. I have seen and mark'd, where it was my duty, this nascent crisis at the beginning of the late war, and may affirm, have foreseen and foretold the events that now form it. My present situation by which I stand unconnected with the politics of ministry, or of the colonies, opens the fairest occasion to me of giving to the public, whom it concerns, such an impartial uninfluenced opinion of what I think to be the right of things, as I am convinced the following sheets contain. I know what effect this conduct will have, what it has had, on this work and on myself. I may be thought neither by the ministry nor the Colonists to understand this subject, the one may call this work the vision of a theorist, the other will represent the doctrine which it contains, as the
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the prejudices of power and ambition: The one may think me an advocate for the politics of the colonies, the other will imagine me to be an evil counsellor against the colonies to the ministry: But as I know that my aim is, without any prudential view of pleasing others, or of my own interest, to point out and to endeavour to establish an idea of the true interest of the colonies, and of the mother country as related to the colonies, I shall equally disregard what varies from this on the one hand, and equally reject what deviates from it on the other.

In the first uncultur'd ages of Europe, when men sought nothing but to possess, and to secure possession, the power of the *sword* was the predominant spirit of the world; it was that, which formed the Roman empire; and it was the same, which, in the declension of that empire, divided again the nations into the several governments formed upon the ruins of it.

When men afterward, from leisure, began to exercise the powers of their minds in (what is called) learning; religion, the only learning at that time, led them to a concern for their spiritual interests, and consequently led them under their spiritual guides. The power of *religion* would hence as naturally

predominate and rule, and did actually become the ruling spirit of the policy of Europe. It was this spirit, which, for many ages formed, and gave away kingdoms; this which created the anointed Lords over them, or again excommunicated and execrated these sovereigns; this that united and allied the various nations, or plung'd them into war and bloodshed; this, that formed the ballance of the power of the whole, and actuated the second grand scene of Europe's history.

But since the people of Europe have formed their communication with the commerce of Asia; have been, for some ages past, settling on all sides of the Atlantic Ocean, and in America, have been possessing every feat and channel of commerce, and have planted and raised that to an interest which has taken root; ---since they now feel the powers which derive from this, and are extending it to, and combining it with others; the spirit of *commerce* will become that predominant power, which will form the general policy, and rule the powers of Europe: and hence a grand commercial interest, the basis of a great commercial dominion, under the present scite and circumstances of the world, will be formed and arise. The rise and forming of this commercial interest is what precisely constitutes the present crisis.

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The European possessions and interests in the Atlantic and in America lye under various forms, in plantations of sugar, tobacco, rice, and indigo, in farms of tillage and pasture, in fisheries, Indian hunts, forests, naval stores, and mines; each different scite produces some special matter of supply necessary to one part of that food and raiment become requisite to the present state of the world; but is, as to it's own local power of produce, totally destitute of some other equally necessary branch of supply. The various nature of the lands and seas lying in every degree and aspect of climate, and the special produce and vegetation that is peculiar to each, forms this local limited capacity of produce. At the same time that nature has thus confined and limited the produce of each individual scite to one, or at most to few branches of supply, at the same time hath she extended the necessities of each to many branches beyond what its own produce can supply. The West India islands produce sugar, meloffes, cotton, &c. they want the materials for building and mechanics, and many the necessaries of food and raiment: The lumber, hides, the fish, flour, provisions, live-stock, and horses, produced in the northern colonies on the continent, must supply the islands with these requisites. On the other hand, the sugar and meloffes of the

sugar islands is become a necessary intermediate branch of the North American trade and fisheries. The produce of the British sugar islands cannot supply both Great Britain and North America with the necessary quantity; this makes the mellosses of the foreign sugar islands also necessary to the present state of the North American trade. Without Spanish silver, become necessary to the circulation of the British American trade, and even to their internal course of sale and purchase, not only great part of that circulation must cease to flow, but the means of purchasing the manufactures of Great Britain would be equally circumscribed: Without the British supplies, the Spanish settlements would be scarce able to carry on their culture, and would be in great distress. The ordinary course of the labour and generation of the negroes in the West India islands makes a constant external supply of these subjects necessary, and this connects the trade of Africa with the West Indies; the furr and Indian trade, and the European goods necessary to the Indian, are what form the Indian connection.---I do not enter into a particular detail of all the reciprocations of those wants and supplies, nor into a proof of the necessary interconnections arising from thence; I only mark out the general *traites* of these, in order to explain what I mean when I say, that by the limitation
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of the capacities and extent of the necessities of each, all are interwoven into a necessary intercourse of supplies, and all indissolubly bound in an union and communion of *one general composite interest* of the whole of the Spanish, French, Dutch, Danish, and British settlements. This is the *natural state* of the European possessions in the Atlantic and in America; this general communion is that natural interest under which, and by which, they must subsist. On the contrary, the spirit of policy, by which the mother countries send out and on which they establish colonies, being to confine the trade of their respective colonies solely to their own special intercourse, and to hold them incommunicable of all other intercourse or commerce, the *artificial or political state* of these colonies becomes distinct from that which is above described as their natural state.---The political state is that which policy labours to establish by a principle of repulsion; the natural one is that state under which they actually exist and move by a general, common, and mutual principle of attraction. This one general interest thus distinct must have some one general tendency or direction distinct also, and peculiar to its own system. There must be some center of these composite movements, some lead that will predominate and govern in this general interest---

That particular branch of business and its connections in this general commercial interest, which is most extensive, necessary, and permanent, settles and commands the market; and those merchants who actuate this branch must acquire an ascendancy, and will take the lead of this interest. This lead will predominate throughout the general intercourse, will dissolve the effect of all artificial connections which government would create, and form the natural connections under which these interests actually exist,—will supersede all particular laws and customs, and operate by those which the nature and actual circumstances of the several interests require. This lead is the foundation of a commercial dominion, which, whether we attend to it or not, will be formed: whether this idea may be thought real or visionary is of no consequence as to the existence and procession of this power, for the interest, which is the basis of it, is already formed;—yet it would become the wisdom, and is the duty of those who govern us, to profit of, to possess, and to take the lead of it already formed and arising fast into dominion; it is our duty so to interweave those nascent powers into, and to combine their influence with, the same interests which actuate our own government; so to connect and combine the operations of our trade with this interest, as to partake of
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its influence and to build on its power. Although this interest may be, as above described, different and even distinct from the peculiar interests of the mother countries, yet it cannot become independent, it must, and will fall under the dominion of *some* of the potentates of Europe. The great question at this crisis is, and the great struggle will be, which of the states of Europe shall be in those circumstances, and will have the vigour and wisdom so to profit of those circumstances, as to take this interest under its dominion, and to unite it to its government. This lead seemed at the beginning of the late war to oscillate between the English and French, and it was in this war that the dominion also hath been disputed. The lead is now in our hands, we have such connection in its influence, that, whenever it becomes the foundation of a dominion, that dominion must be ours.

It is therefore the duty of those who govern us, to carry forward this state of things to the weaving of this lead into our system, that Great Britain may be no more considered *as the kingdom of this Isle only, with many appendages of provinces, colonies, settlements, and other extraneous parts,* but as **A GRAND MARINE DOMINION CONSISTING OF OUR POSSESSIONS IN THE ATLANTIC AND**

IN AMERICA UNITED INTO A ONE EMPIRE,
IN A ONE CENTER, WHERE THE SEAT OF
GOVERNMENT IS.

As the rising of this crisis above described, forms precisely the *object* on which government should be employed; so the taking leading measures towards the forming all those Atlantic and American possessions into one Empire of which Great Britain should be the commercial and political center, is the *precise duty* of government at this crisis.

The great minister, whose good fortune shall have placed him at this crisis, in the administration of these great and important interests—will certainly adopt the system which thus lies in nature, and which by natural means alone, if not perverted, must lead to a general dominion, founded in the general interest and prosperity of the commercial world, must build up this country to an extent of power, to a degree of glory and prosperity, beyond the example of any age that has yet passed;—* *id est viri et ducis non deesse fortunæ præbenti se, et oblata casu flectere ad concilium.*

The forming some general system of administration, some plan which should be

* Liv. l. 28. § 44.

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(whatever may be the changes of the ministry at home, or in the governors and officers employed abroad) uniformly and permanently pursued by measures founded on the actual state of things as they arise, leading to this great end, *is, at this crisis, the precise duty of government.* This is an object which ought not to be overlooked or mistaken. It ought not to be a state mystery, nor can be a secret. If the Spanish, French, and Dutch governments can oppose it, they will; but if it be founded in nature, such opposition will only hasten its completion, because any measures of policy which they can take to obstruct it, must either destroy the trade of their own colonies, or break off their connection. If they attempt to do this by force, they must first form an alliance, and settle the union of their mutual interests, and the eventual partition of the effect of it; but this will prove a matter of more difficulty, than can easily be compassed, and under the disadvantages created thereby, there will be much hazard of the utmost effort of their united forces.

To enable the British nation to profit of these present circumstances, or of the future events, as they shall successively arise in the natural procession of effects, it is necessary, that the administration form itself into such establishments

establishments for the direction of these interests and powers, as may keep them in their natural channel, as may maintain their due connections with the government, and lead them to the utmost effect they are capable of producing towards this grand point.

The first spring of this direction, the basis of this government, is the administration at home. If that department of administration, which should have the direction of these matters, be not wisely and firmly bottomed, be not so built, as to be a *practical*—be not so really supported by the powers of government, as to be an *efficient administration*, all measures for the administration of these interests, all plans for the government of these powers are vain and self-delusive; even those measures that would regulate the movements and unite the interests under a practical and efficient administration, become mischievous meddling impertinencies where that is not, and must either ruin the interests of these powers, or render a breach of duty necessary to the colonies that they may avoid that ruin.

That part of government, which should administer this great and important branch of business, ought, in the first place, to be the center of all information and application
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from all the interests and powers which form it; and ought from this center, to be able, fully, uniformly, and efficiently, to distribute its directions and orders. Wherever the wisdom of state shall determine that this center of information shall be fixed; from whatever department all appointments, orders, and executive administration shall issue, it ought somewhere to be fixed, known, of record, and undivided; that it may not be partial, it ought to extend to all times, and all cases. All application, all communication, all information should center immediately and solely in this department: this should be the spring of all nominations, instructions, and orders.—It is of little consequence where this power of administration is placed, so that the department be such, as hath the means of the knowledge of its business—is specially appropriated to the attention necessary to it—and officially so formed as to be in a capacity of executing it. Whether this be a Secretary of State, or the Board of Trade and Plantations, is of no consequence; but it ought to be entirely in either the one or the other. Where the power for the direction is lodged, there ought all the knowledge of the department to center; therefore all officers, civil or military, all servants of the government, and all other bodies or private persons ought to correspond immediately

ly with this department, whether it be the Secretary of State or the Board of Trade. While the military correspond with the Secretary of State, the civil in one part of their office with the Secretary of State, in another with the Board of Trade; while the navy correspond in matters not merely naval with the Admiralty, while the engineers correspond with the Board of Ordnance, officers of the revenue with the several boards of that branch, and have no communication with the department which has, or ought to have, the general direction and administration of this great Atlantic and American, this great commercial interest, who is to collect? who does, or ever did collect, into a one view, all these matters of information and knowledge? What department ever had, or could have, such general direction of it, as to discuss, compare, rectify and regulate it to an official real use? In the first place, there never was yet any one department form'd for this purpose; and in the next, if there was, let any one acquainted with business dare to say, how any attempt of such department would operate on the jealousies of the others. Whenever, therefore, it is thought proper (as most certainly it will, some time or other, tho' perhaps too late) to form such department, it must (if I may so express myself)

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be sovereign and supreme, as to every thing relating to it; or to speak plainly out, *must be a secretary of state's office in itself*. When such is form'd, although the military, naval, ordnance, and revenue officers, should correspond, in the matters of their respective duties, with the departments of government to which they are more immediately subordinate and responsible, yet, in general matters of information, or points which are matters of government, and the department of this state office, they should be instructed to correspond and communicate with this minister. Suppose that some such minister or office now existed, is it not of consequence that he should be acquainted with the Geography of our new acquisitions? If, therefore, there have been any actual surveys made of them, should not such, or copies of such, be sent to this minister or office? If a due and official information of any particular conduct in our colonies, as to their trade, might lead to proper regulations therein, or might point out the necessity of a revision of the old laws, or the making further provision by new ones, would it not be proper that the custom-house officers settled there should be directed to correspond and communicate with this minister, or office, on these points? Would it interfere with their due subordination, as officers of the

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the revenue, to the commissioners of the customs?—If there were any events arising, or any circumstances existing, that might affect the state of war or peace, wherein the immediate application of military operations were not necessary or proper, should not the military and naval officers be directed to communicate on these matters with this minister, or office? Should not, I say, all these matters of information come officially before this minister, if any such state minister, or office, was established?

As of information and knowledge centering in a one office, so also of power of executing, it should spring from one undivided department. Where the power of nominating and dismissing, together with other powers, is separated from the power of directing, the first must be a mere privilege or perquisite of office, useless as to the king's business or the interest of his colonies, and the latter must be inefficient. That office, which neither has the means of information, nor can have leisure to attend to the official knowledge produced thereby, nor will be at the trouble to give any official directions, as to the ordinary course of the administration of the American matters, must certainly be always, as it is, embarrassed with the power of nomination, and fetter'd with the

chain of applications, which that power drags after it. On the other hand, what effect will any instructions, orders or directions, have from that board, which has not interest to make or dismiss one of the meanest of its own officers : this, which is at present the only official channel, will be despised ; the governors, nay, every the meanest of the officers in the plantations, looking up solely to the *giving power*, will scarce correspond with the *directing*—nay, may perhaps contrive to make their court to the one, by passing by the other. And in any case of improper conduct of these officers, of any neglect of duty, or even of misdemeanour ; what can this directing power do, but complain to the minister who nominates, against the officers appointed by him ? If there be no jealousies, no interfering of interests, no competitions of interfering friends, to divide and oppose these two offices to each other : if the minister is not influenced to continue, upon the same motives upon which he first appointed ; if he does not see these complaints in a light of opposition to his nomination and interest ; some redress may, after a due hearing between the party and the office, be had ;—the authority of the board may be supported, and a sort of remedy applied to the special business, but a remedy worse than the disease—a remedy that

dishonours that board, and holds it forth to the contempt of those whom it ought to govern.

It is not only from the natural impracticability of conducting this administration under a divided State of power and direction, that the necessity of forming a some one state office, or minister of state, for the executing it arises: but the very nature of the business of this department, makes the officer who is to administer it a state officer, a minister for that department, and who ought to have immediate access to the closet. I must here repeat, that I am no partizan of the Secretary of State's office, or for the Board of Trade: I have ceased to have any connection of business with either, and have not the least degree of communication with the one or the other. Without reference, therefore, to either, but with all deference to both, I aim to point out, that the department of the administration of Trade and plantations, be it lodged where it may, should be a State office, and have a minister of state. That office, or officer, in a commercial nation like this, who has the cognizance and direction (so far as government can interfere) of the general trade of the kingdom—whose duty it is to be the depository and reporter of the state and condition of it; of every thing
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which may advance or obstruct it, of the state of manufactures, of the fisheries, of the employment of the poor, of the promoting the labour and riches of the country; by studying and advising every advantage, that can be made of every event which arises in commercial politics, every remedy, which can remove any defect or obstruction;—who is officially to prepare every provision or revision necessary in the laws of trade, for the consideration of parliament; and to be the conductor of such thro' the necessary measures—is certainly an officer of state, if the Secretary of State, so call'd, is. That office, or officer, who has cognizance and direction of the plantations in every point of government, in every matter judicial or commercial; who is to direct the settlements of colonies, and to superintend those already settled; who is to watch the plantations in all these points, so far as they stand related to the government, laws, courts and trade of the mother country—is certainly an officer of state, if the Secretary of State, so called, is. That office or officer, who is to report to his Majesty in council on all these points; whose official *fiat*, or negative, will be his Majesty's information in council, as to the legislature in the colonies—is certainly an officer of state. That office, or officer, who is to hear and determine on all matters

of complaint, and mal-administration, of the crown officers and others, in the plantations; and can examine witnesses on oath ---is surely an officer of state. That office, or officer, who is to correspond with all the servants of the crown on these points, and to be the issuer of his Majesty's orders and instructions to his servants, on these many, great, and important points of state—is certainly his Majesty's secretary, and certainly a secretary of state.

But if it be considered further, who the persons are, that are of this very great and extensive commission of the Board of Trade and Plantations; namely, all the great officers of state for the time being, with the bishop of London, the secretaries of state for the time being, and those more especially called the commissioners of trade, it will be seen, that it is no longer a doubt or a question, as to its being an office of state: it is actually so; and has, as an office, as a board, immediate access to his Majesty in council, even to the reporting and recommending of officers. This was the plan whereon it was originally founded, at its first institution, by Lord Sommers.

That great statesman and patriot saw that all the powers of government, and several departments

departments of administration disunited, were interfering with, and obstructing each other on this subject, and not they only here in England, but that the respective officers of these several departments carried all this distraction into the detail of their business in the colonies, which I am afraid is too much the case even at this day: he saw that this administration could not be conducted but by an intire union of all the powers of government, and on that idea formed the board of trade and plantations, where, and where alone, these powers were *united in a one office*. In which office, and in which alone, all the business of the colonies ought therefore to be administered; for if such union be necessary, here alone is that *official union*. Unhappily for the true interest of government, partly from an intire neglect of this administration in time past, and partly from the defective partial exercise of it, since some idea of these matters began again to revive, this great and wise plan hath been long disused; but it is fortunate for the public in this important crisis, that such is the temper of particulars, such the zeal of all for his Majesty's service, such the union of his servants, that the spirit of service predominates over these natural defects: so that all who wish well to the interest of this country, in its trade and colonies, may hope to see

that union, at present only ministerial, become *official* in this business, and revive again that great, wise and constitutional plan of office, actuated under the real spirit of it.

The only question at present is, who shall be the executive officer of this department of state; whether the secretary of state, properly so called; or the first lord, and other commissioners, properly called *the board of trade*; or whether it shall remain divided, as it is, between the several great departments of administration; or *whether some more official and practical division of this administration may not be made.*

Suppose now, it should be thought proper, that this administration be placed in the secretary of state's office, all the administration of the plantations may be given to the southern department: yet the great object of the general trade of Great Britain must be divided between the southern and the northern, as the matters of consideration happen to lie in the one or in the other department; and how will the southern department act, when any matter of commerce arises in the plantations, that has special connections or interferences with the Dutch, Hamborough, Danish or Russian trade?

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It cannot lie in the board of trade, properly so called, until it be found proper, and becomes a measure of government to erect that board into a secretary of state's office for this department, which, first or last, it most certainly will do. That, therefore, the great business of trade and plantations may not run into confusion, or be at a stand;—that it may be carried to the effect proposed, held forth, and desired by government, and necessary to it; all that can be done at present is, to put the whole executive administration, the nomination, correspondence, issuing of instructions, orders, &c. under the secretary of state, if he has leisure to attend to it, and can undertake it; and to make the board of trade a mere committee of reference and report; instead of reporting to the king in council, to report to the secretary of state, who shall lay the matters before his Majesty, and receive and issue his orders;—who shall refer all matters to this committee, for their consideration, and shall conduct through the legislature all measures necessary to be determined thereby. If this be not practicable, there is no other alternative, than to do directly what ought to be done, and what, some time or other, must be done; the making the officer who conducts this department a minister for that department, with all the powers necessary thereto. For

until a practical and efficient administration be formed, whatever the people of this country may think, the people of the colonies, who know their business much better than we do, will never believe government is in earnest about them, or their interest, or even about governing them; and will, not merely from that reasoning, but from necessity of their circumstances, act accordingly.

Until an effective administration for Colony affairs be established by government, all plans for the governing of those countries under any regular system of policy, will be only matter of speculation, and become mere useless opprobrious theory. All official information given and transmitted by those whose duty it is to give it, will, as accident shall decide, or as the connexions of parties shall run, be received or not; nay, it may so happen, that those officers who should duly report to government the state of these matters, will, as they find themselves conscientiously or politically disposed, direct that information to those who are in, or to those who are out of administration. Every leader of every little flying squadron will have his runner, his own proper channel of information; and will hold forth his own importance in public, by bringing *his plan*

plan for American affairs before it. All true and regular knowledge of these affairs being dispersed, will be evaporated; every administration, even Parliament itself, will be distracted in its councils by a thousand odds and ends of proposals, by a thousand pieces and parcels of plans, while those surely, who are so deeply concerned as the Americans themselves are, will not be excluded from having their plan also; they will have their plan also, for however peaceably they may submit to the direction of the powers of government, derived through a regular established permanent mode of administration, they will by any means that they can justify, refuse to have their interests directed and disposed of by every whim that every temporary empiric can force into execution. If therefore we mean to govern the Colonies, we must previously form at home some practical and efficient administration for Colony affairs.

Before the erection of the Board of Trade as a particular office, the business of the Colonies was administered with efficiency; the king himself in council administered the government of his Colonies; the state officer, each in his proper department was no otherwise Minister than as ministerially executing the orders which he received, or
officially

officially reporting from his respective department, the information which he had to lay before the king in council. Since the establishment of that office called the Board of Trade, the administration of the Colonies has either laid dormant, or been overlaid; or, if taken up, become an occasion of jealousy and struggle for power between that Board and every state officer who hath been deemed the Minister for the time being. From this jealousy and this struggle, this Board hath been supposed to interfere at different times with every other office, while at one time it hath had the powers and held the port of a minister's office, and at another hath become a mere committee, inefficient as to execution, unattended to as reporting. The Colonies, and the officers of the Colonies, have one while been taught to look up to this Board as the Minister for their affairs, and at another, have learned to hold it in that contempt which inefficiency gives; which contempt, however, hath not always stopped there.

To prevent, on this critical occasion, all such appearances on one hand, from misleading those who are to be governed, and to put an end on the other, to all interfering amongst those who are to govern in this line of business---The Board of Trade should
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either be made what it never was intended to be, a Secretary of State's office for the Plantations, or be confined to what it really is, a committee of reference for examination and report, for stating and preparing business, while the affairs of the Colonies are administered solely by the King in council, really acting as an efficient board for that purpose. Somewhere there ought to be an efficiency, and in this supreme board is the proper residence of it. To place it here would be really and in fact the establishing of an administration for colony affairs.

The first step that such administration would take to fix the basis of an established, permanent and effective system of government for the mother country and the Colonies, must be made by some *leading measure*, which shall, on real fact, and by actual representation of the parties concerned, examine into the various interests which have arisen, the various claims which are derived from those interests, and the various rights that may, or may not, be admitted, as founded on these, and as consistent with the general government and interest of the whole.

To obtain this with truth and certainty, and to engage the colonists to co-operate in this view with that confidence which a free people

people must have, if they co-operate at all--- government would send out to America, *some very considerable person*, under commission and instructions, to hear and examine on the spot, the state of things there, and by such proper representations and assistance as can no where be had but upon the spot, and from the people themselves, to form such authentic matter of information for the king in council, as may become the solid basis of real government, established by the principles of real liberty.

To such considerable person, and to such commission, only, would the colonists give their confidence; they would know that *there* there was no spirit of party or faction, that there could be no jobb---They would be convinced that government was in earnest, and meant to act fairly and honourably with them. They would meet such person in the abundance of their loyalty, with dispositions of real business in their temper, and with the spirit of real union in their hearts.

What commission could be more honourable and glorious, even to the highest character, than that of acting for the rights and liberties of a whole people, so as to be the means of establishing those rights and liberties

liberties, by an adequate system of freedom and government, extended to the whole? What can be more suited to the most elevated character, than to be the *great reconciler* between the mother country and her colonies, mis-represented to, and mis-informed of each other?

I am almost certain that this measure will not be adopted, that it will be, as it has been already, rejected---that there never will be any systematical union of government between the mother country and the colonies---that the opportunity when such might be established on true principles will be neglected---and that the course of business will, on this occasion, be, as the history of mankind informs us it always has been, that those errors which might be rectified by the spirit of policy, will be permitted to go on piling up one mischief over another, until nothing but power can interpose, which will then interpose when the spirit of policy is no more.

The mother country and her colonies will continue to live on in perpetual jealousies, jarrings and disputes. The colonies will for some time *belong to some faction here*, and be the tool of it, until they become powerful enough to hold a party for themselves, and
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make *some faction their tool*. The latter stage of this miserable connection will be one continued struggle, whether Great Britain shall administer the rights and interests of the colonies, or whether the interest and power of the colonies shall take a lead in that administration which shall govern Great Britain. This convulsion may agitate for a while, until some event shall happen that will totally break all union between us, and will end in the ruin of the one or the other, just as the accident of the die shall turn.

Although I am convinced that this will be the state of things, yet, as I know that what I have here recommended, is founded on precedents of better and wiser times than the present, is not founded barely on my own experience, but in that of men who have long had the lead of business in those countries, is what every true friend of the colonies, who lives and has his property there, would recommend---what every man of business here, who wishes well to the government of Great Britain, must approve. I now propose it to the public as a measure, of which if administration should neglect or refuse to take the lead, the colonies may profit by those means of communication with one another, and by those powers which their constitutions and establishments give them

them for the preservation of their civil and commercial interests; yet, taking it up, as a measure, which, for the sake of Great Britain, I wish administration to adopt, I say, government should send out some considerable person, with a council to assist him, under a commission and instructions, to call a congress of commissioners from the several colonies.---He should have power and be instructed to call to his aid and assistance, the governors, or any other his Majesty's servants, as occasion should require.

By the representations and assistance of this congress and these persons, he should inquire into the *actual* state of the crown's authority, as capable of being executed by the King, and by his governor, and other the immediate executors of the power of the crown.

He should inquire into the extent of the exercise and claim of the legislative powers, and examine dispassionately and without prejudice, on what grounds of necessity or expediency any precedents which stretch beyond perhaps the strict line of the commissions or charters, are founded.

He should inquire into the state of their laws, as to their conformity to the laws of Great Britain, and examine the real state of

the facts or business which may have made any deviation necessary or not.

He should examine into the powers and practice of their courts of judicature, whether, on one hand, they have not extended their authority beyond their due powers; or whether, on the other hand, they have not been restrained by instructions, or by the acts of the colony legislatures, within bounds too narrowly circumscribed to answer the ends for which such courts are erected.

He should, which can only be known upon the spot, inquire into and examine the actual state of their commerce, that where it deviates unnecessarily from the laws of trade, it may be restrained by proper regulations---or where the laws of trade are found to be inconsistent with the interest of a commercial country having colonies which have arisen from, and depend upon trade, a revision may be made of those laws, so as that the system of our laws may be made conform to the system of our commerce, and not destructive of it.

Under all these various heads, he may hear all the grievances which the officers of the crown, or the people, complain of, in
order

order to form a just and actual representation for the King in council.

He should inquire into the state of the King's revenues, his lands, his naval stores; and he should review the state of the military service, the forts, garrisons and forces.--- With the assistance of proper commissioners from the provinces and colonies concerned, he should settle the several disputes of the colonies amongst themselves, particularly as to their boundary lines. He should also inquire into all fraudulent grants.

All these matters duly examined and inquired into, a report of the whole business, should be drawn up, and being authenticated by the original documents, should be laid before the King in council: Those points which were of the special department of any of the boards or offices under government, would be referred from thence to those respective offices, for them to report their opinion upon the matter. ---And when the whole, both of matter and of opinion, was by the most authentic representations, and by the best advice, thus drawn together, the King in council would be enabled to form, and by and with the advice and authority of Parliament to establish, the only system of government and

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commercial

commercial laws, which would form Great Britain and her colonies into a one united commercial dominion.

If this measure be adopted, a general bill of rights, and an act for the establishment of government and commerce on a great plan of union, will be brought forward; the colonies will be considered as so many corporations, not without, but united to, the realm; they will be left in all the free and full possession of their several rights and liberties, as by grant, charter, or commissions given; yet, for every power which they exercise or possess, they will depend upon the government of the whole, and upon Great Britain as the center. Great Britain, as the center of this system, of which the colonies by actual union shall become organized, not annexed parts, must be the center of attraction to which these colonies, in the administration of every power of their government, in the exercise of their judicial powers, in the execution of their laws, and in every operation of their trade, must tend. They will remain under the constant influence of the attraction of this center; and cannot move, but that every direction of such movement will converge to the same. And as it is not more necessary to preserve the several governments
subordinate

subordinate in their respective orbs, than it is essential to the preservation of the whole empire to keep them disconnected and independent of each other, *they must be guarded by this union against having or forming any principle of coherence with each other, above that whereby they cohere to this center, this first mover.* They should alway remain incapable of any coherence, or of so conspiring amongst themselves, as to create any other equal force which might recoil back on this first mover. Policy acting upon a system of civil union, may easily and constitutionally provide against all this. The colonies and provinces, as they stand at present, are under the best form as to this point, which they can be under. They are under the best frame and disposition for the government of the general and supreme power (duly applied) to take place, having at present no other principle of civil union between each other, than that by which they naturally are, and in policy should be, in communion with Great Britain, as the common center of all. The different manner in which they are settled; the different modes under which they live; the different forms of charters, grants, and frames of government they possess; the various principles of repulsion that these create; the different interests which they actuate; the

different religious interests by which they are actuated; the rivalship and jealousies which arise from hence; and the impracticability of reconciling and accommodating these incompatible ideas and claims, will keep them for ever so, so long as the spirit of civil policy remains, and is exerted to the forming and maintaining of this system of union.

However visionary this may seem to those who judge by parts, and act by temporary expedients, those truly great ministers who shall ever take up the administration of the colonies as a system, and shall have a general practical and adequate knowledge of that system, as interwoven in that of the mother country, will, on the contrary, find this measure prudential if not a necessary one, as leading to that great and absolutely necessary measure of uniting the Colonies to Great Britain as parts of the realm, in every degree and mode of communication of its rights and powers. And until some steps are taken which may lead and approach to this system of union, as the interest and power of the Colonies approach to the bearing of a proportion with that of Great Britain, the real interest of Great Britain and her Colonies will continue to be very inadequately and very unhappily administered, while the business of the Colonies shall
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in the mean time become a faction instead of a constitutional part of the administration.

The center of power, instead of remaining fixed as it now is in Great Britain, will, as the magnitude of the power and interest of the Colonies increases, be drawn out from the island, by the same laws of nature analogous in all cases, by which the center of gravity in the solar system, now near the surface of the sun, would, by an encrease of the quantity of matter in the planets, be drawn out beyond that surface. Knowing therefore the laws of nature, shall we like true philosophers follow, where that system leads, to form one general system of dominion by an union of Great Britain and her Colonies, fixing, while it may be so fixed, the common center in Great Britain, or shall we without ever seeing that such center must be formed by an inter-communion of the powers of all the territories as parts of the dominions of Great Britain, like true modern politicians, and from our own narrow temporary ideas of a local center, labour to keep that center in Great Britain by force against encreasing powers, which will, finally, by an overbalance heave that center itself out of its place? Such measures would be almost as wise as his who standing in a scale should thrust his stick up against the beam

to prevent it from descending, while his own weight brought it the faster down. That policy which shall ever attempt to connect the Colonies to Great Britain *by power*, will in that very instant connect them *to one another in policy*.

Before we enter into these matters, I do not think it would be impertinent just to mark the idea of colonies, and their special circumstances, which makes it a measure in commercial governments, to establish, cultivate, and maintain them.

The view of trade in general, as well as of manufactures in particular, terminates in securing an extensive and permanent vent; or to speak more precisely, (in the same manner as shop-keeping does) in having many and good customers: the wisdom, therefore, of a trading nation, is to gain, and to create, as many as possible. Those whom we gain in foreign trade, we possess under restrictions and difficulties, and may lose in the rivalry of commerce: those that a trading nation can create within itself, it deals with under its own regulations, and makes its own, and cannot lose. In the establishing colonies, a nation creates people whose labour, being applied to new objects of produce and manufacture, opens
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new channels of commerce, by which they not only live in ease and affluence within themselves, but, while they are labouring under and for the mother country, (for there all their external profits center) become an increasing nation, of appropriated and good customers to the mother country. These not only increase our manufactures, increase our exports, but extend our commerce; and if duly administered, extend the nation, its powers, and its dominions, to wherever these people extend their settlements. This is, therefore, an interest which is, and ought to be dear to the mother country: this is an object that deserves the best care and attention of government: and the people, who through various hardships, disasters and disappointments; through various difficulties and almost ruinous expences, have wrought up this interest to such an important object, merit every protection, grace, encouragement, and privilege, that are in the power of the mother country to grant.---It is on this *valuable consideration*, (as Mr. Dummer, in his spirited defence of the colonies, says) that they have a right to the grants, charters, privileges and protection which they receive; and also on the other hand, it is from these grants, charters, privileges and protection given to them, that the mother country has an exclusive

right to the external profits of their labour, and to their custom. As it is the right, so it becomes the duty of the mother country to cultivate, to protect and govern the colonies: which nurture and government should precisely direct its care to two essential points. 1st, That all the profits of the produce and manufactures of these colonies center finally in the mother country: and 2dly, That the colonies continue to be the sole and proper customers of the mother country.---To these two points, collateral with the interests, rights and welfare of the colonies, every measure of administration, every law of trade should tend: I say collateral, because, rightly understood, these two points are mutually coincident with the interests, rights and welfare of the colonies.

It has been often suggested, that care should be taken in the administration of the plantations; lest, in some future time, these colonies should become independent of the mother country. But perhaps it may be proper on this occasion, nay, it is justice to say it, that if, by becoming independent, is meant a revolt, nothing is further from their nature, their interest, their thoughts. If a defection from the alliance of the mother country be suggested, it ought to be, and can be truly said. that their spi-
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rit abhors the sense of such ; their attachment to the protestant succession in the house of Hanover will ever stand unshaken ; and nothing can eradicate from their hearts their natural, almost mechanical, affection to Great Britain, which they conceive under no other sense, nor call by any other name, than that of *home*. Besides, the merchants are, and must ever be, in great measure allied with those of Great Britain ; their very support consists in this alliance, and nothing but false policy *here* can break it. If the trade of the colonies be protected and directed from hence, with the true spirit of the act of navigation, that spirit under which it has risen, no circumstances of trade could tempt the Colonists to certain ruin under any other connections. The liberty and religion of the British colonies are incompatible with either French or Spanish government ; and they know full well, that they could hope for neither liberty nor protection under a Dutch one. Any such suggestion, therefore, is a false and unjust aspersion on their principles and affections, and can arise from nothing but an intire ignorance of their circumstances. Yet again, on the other hand, while they remain under the support and protection of the government of the mother country ; while they profit of the beneficial part of its trade ; while their attachment to
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the present royal family stands firm, and their alliance with the mother country is inviolate, it may be worth while to inquire, whether they may not become and act in some cases independent of the *government and laws* of the mother country:—and if any such symptoms should be found, either in their government, courts, or trade, perhaps it may be thought high time, even now, to inquire how far these colonies are or are not arrived, at this time, in these cases, at an independency of the government of the mother country:—and if any measure of such independency, formed upon precedents unknown to the government of the mother country at the time they were formed, should be insisted on, when the government of the mother country was found to be so weak or distracted at home, or so deeply engaged abroad in Europe, as not to be able to attend to, and assert its right in America, with its own people,—perhaps it may be thought, that no time should be lost to remedy or redress these deviations—if any such be found; or to remove all jealousies arising from the idea of them, if none such really exist.

But the true and effectual way to remove all jealousies and interfering between the several powers of the government of the mother
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ther country, and the several powers of the governments of the colonies, in the due and constitutional order of their subordination, is to inquire and examine what the colonies and provinces really are; what their constitution of government is; what the relation between them and the mother country; and in consequence of the truth and principles established on such examination—to maintain firmly, both in claim and exercise, the rights and power of the supreme government of the mother country, with all acknowledgement of the rights, liberties, privileges, immunities and franchises of the Colonists, both personal and political, treating them really as what they are.—Until this be done, there can be no government properly so called; the various opinions, connections and interests of Britains, both in this island, and in America, will divide them into parties—the spirit of mutual animosity and opposition, will take advantage of the total want of established and fixed principles on this subject, to work these parties into faction; and then the predominancy of the one faction, or the other, acting under the mask of the forms of government, will alternately be called government.

In the former editions of this book, I had marked out what points of colony government

ment had fallen, in the course of administration, into dispute; what the different apprehensions were, which had given rise to the different measures pursued on those points—I had stated the nature of each question—what was the true issue to which the dispute ought to be brought; and at the same time that I stated the effect of these disputes in matters of administration, I shewed how necessary it was that they should be some way or other decided. I did not proceed to give any opinion or decision—I thought the first sufficient, and thought it was all that was necessary. But yet as that was necessary, and as I saw an attention to American affairs arising in the minds of most men of business, I was in hopes that these points might have been dispassionately considered, and prudently settled; that they might be fixed on such legal and constitutional grounds: that that true system of efficient government founded in political liberty (which all seemed to profess here) might be established in the colonies: I was sure, from the spirit and genius of the people, it would be nourished and maintained there, so as to become in some future, and perhaps not very distant age, an asylum to that liberty of mankind, which, as it hath been driven by the corruption and the consequent tyranny of government, *both been constantly retiring*

retiring westward—but from the moment that American affairs became an object of politics, they became the tools and instruments of faction. Such hath been their fate, that as on one hand they have given real occasion to those who mean well to the peace and liberty of mankind; so on the other have they supplied specious pretences to those who mean only to profit of the force of parties—to dispute the state and application of every case in politics relative to the colonies, by recurring back to the principles on which they appear to have been settled, established, and afterwards governed; and these principles, from the variableness and fluctuation of the opinion and spirit of government, have been so often changed, that propositions the very reverse of each other, may strictly be deduced from the conduct of the crown and state towards the colonies. Hence it is, that at this day the constitution and rights of the colonies, in the actual exercise of them, are unsettled; the relation in which they stand connected with the realm and with the King, are disputed; and Parliament, as well as ministers, are balancing in opinion what is the true, legal, and constitutional mode of administration by which those colonies are to be governed. Whether the colonies be demesnes of the crown, without the realm, or parts and parcels of the realm;

realm ; whether these foreign dominions of the King be as yet annexed to the realm of England ; whether the colonists be subjects of the King in his foreign dominions, or whether they be subjects of, and owe allegiance to the realm ; has been at various times, and is at this day called into dispute. This question is now no longer of curiosity and theory ; it is brought actually into issue. It is now by deeds and overt acts discussed, and must be decided. To do this truly and justly, it must be thoroughly considered, what were the circumstances of their migration ; under what political constitutions they were established and chartered ; and by what mode of administration their affairs have been conducted and governed by the King, and by the government of England.

When the lands of America were first discovered, the sovereign of that subject, in each particular case, who discovered them, either from a power given by the Pope, or from some self-derived claim, assumed the right of possession in them. If these lands were really derelict, preoccupation might have created a right of possession : yet even in this case, some further circumstances of interconnection with that land, such as the mixing labour with it, must attend that occupancy, or the right would have been very defective.

defective. Where the lands were already occupied by the human species, and in the actual possession of inhabitants, it will be very difficult to show on what true principle or grounds of justice, the Pope, or any other christian prince, assumed the right to seize on, dispose, and grant away, the lands of the Indians in America. Surely, the divine author of our holy religion, who declared that his kingdom was *not of this world*, hath not bequeathed to christians an *exclusive charter*, giving right of possession in the lands of this world, even where the supreme Providence hath already planted inhabitants in the possession of it: and yet, absurd, unjust, and groundless as this claim is, it is the only claim we Europeans can make, the only right we can plead. However, the English title is as good as any other European title, and indisputable against any other European claim.

Let us see the first assumption and exercise of this right in our government, contained in the grant which Henry the Seventh made to Cabot.—Copy of the grant, as it is a curious act, is printed in the appendix.—It contains a grant to Cabot, and his sons, of power, to set up the King's standard in any lands, islands, towns, villages, camps, &c. which he shall discover not in the occu-
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pancy of any christian power : and that this Cabot, his sons, and their heirs, may seize, conquer, and occupy any such lands, islands, towns, camps, or villages : and as his liege vassals, governors, locumtenentes, or deputies, may hold dominion over and have exclusive property in the same.

As the sovereigns of Europe did thus on one hand assume, without right, a predominant claim of possession, against the Indians in these lands ; so our sovereigns also thus at first assumed against law an exclusive property in these lands, to the preclusion of the jurisdiction of the state. They called them their foreign dominions ; their demesne lands in *partibus exteris*, and held them as their own, the King's possessions, not parts or parcels of the realm, † “ as not yet annexed “ to the crown.” So that when the House of Commons, in those reiterated attempts which they made by passing a bill to get a law enacted for establishing a free right of fishery on the coasts of Virginia, New-England, and Newfoundland, put in the claim of the state to this property, and of the parliament to jurisdiction over it ; they were told in the House by the servants of the crown, † “ That it was not fit to make

† Journal of the House of Commons, April 25, 1621.

“ laws here for those countries which are
 “ not yet annexed to the crown.” † “ That
 “ this bill was not proper for this house, as
 “ it concerneth America.” Nay, it was
 doubted by others, “ whether the house had
 “ jurisdiction to meddle with these matters.”
 And when the house, in 1624, was about to
 proceed upon a petition from the settlers of
 Virginia, to take cognizance of the affairs of
 the plantations, “ upon § the Speaker’s pro-
 “ ducing and reading to the house a letter from
 “ the king concerning the Virginia petition,
 “ the petition, by general resolution, was
 “ withdrawn.” And although the bill for a
 free fishery, to the disannulling some clauses in
 the King’s charters, passed the house; as
 also the house came to some very strong re-
 solutions upon the nullity of the clauses
 in the charters; yet the house from this
 time took no further cognizance of the plan-
 tations till the commencement of the civil
 wars. Upon this ground it was the King
 considered the lands as his demesnes, and the
 colonists as his subjects in these his foreign
 dominions, not his subjects of the realm or
 state.

The plantations were settled on these lands
 by his licence and grant; the constitutions

† Ditto, April 29, 1621.

§ Ditto, April 29.

and powers of government were framed by the King's charters and commissions; and the colonists understanding themselves as removed out of the realm, considered themselves in their executive and legislative capacity of government, in immediate connection and subordination to the King, their only sovereign lord.

In the same manner as this state and circumstances of a people migrating from, and settling in vacate countries, without, or out of the territories of the realm, operated to the establishment of the King's sovereignty there, he having assumed an exclusive right to the property. In the same manner it must and did necessarily operate to the establishment of the people's liberty, both personal and political—they had either tacit or express permission to migrate from the realm, and to settle in places out of the realm: those who settled under charters, had, in those charters, licence, by an express clause, to *quit* the realm, and to *settle* on lands *out of the realm*; as also acknowledgement that they and their posterity were entitled to enjoy all the liberties, franchises, and immunities, of free denizens and natural subjects, to all intents and purposes, as if they had been abiding and born within the realm.

So

So long as they were considered as natural born English subjects *of the realm*, they must retain and possess in the full enjoyment and exercise thereof, all the same rights and liberties in their persons, all the same franchises and privileges in their property, that any other English subject did possess.—If their freehold was part of any manor in any county of the realm, and that freehold was worth forty shillings by the year, such freehold undoubtedly gave the possessor a vote for the representative of such county; and these rights must give this subject, this freeholder, claim to the same participation of council in the legislative part of government, to the same communication of power in the executive part, the same right to act and trade, as every other English freeholder had.

If by migrating from out the realm the colonists ceased to have participation, such legislative participation in the councils as the English freeholder hath; if they ceased to have communication in the offices, burthens, and exercise of government; if being without the realm they ceased to be bound by laws made only for the internal regulation and government of the realm; if they ceased in future to be bound by laws wherein they were not expressly named; if they

ceased to be under the protection of those laws which were made, and those powers and magistracies which were created for the preservation of the peace within the realm; if they were (no matter how) separated from participation of the benefits of our holy religion, according to the established church; and if the colonies at the same time were not parts or parcels of the realm, they undoubtedly ceased to be subjects of the realm. But being by law, both established and natural, possessed of all the rights, privileges, franchises and immunities of a free-born people—no government less free than that which they had left, could, by any justifiable power, be established over or amongst them; and therefore the colonists were established in a government conformable to the government of England. They had power of making laws and ordinances, and of laying impositions, by a general assembly, or representative legislature—the power of erecting courts and creating magistrates, of the same power and operations, by the same modes and proceedings, *mutatis mutandis*, as were used in the government of England; nay, in some cases, by a mode adapted to a democratic, and even elective, government. The administrative and executive part had all the same checks, and the legislative all the same powers and privileges, only restrained
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from not acting contrary to the laws of England. And upon the same ground those colonies, of whose first settlement the crown took no care or cognizance, the colony of Plymouth, || that of Massachusetts, Providence Plantation, and the colony of Connecticut, established among themselves the like powers of free government.

And here we may venture to affirm, that if the colonies were to be deemed without the realm, not parts or parcels of it, not annexed to the crown of England, though the demesnes of the King; if the colonists by these means ceased to be subjects of the realm, and the Parliament had no right or jurisdiction to make laws about them; if the government of them resided in the King, only as *their* sovereign, *dum Rex ei præsit, ut caput istius populi, non ut caput alterius populi*, they were certainly a people *sui juris* --- *nam imperium quod in rege est ut in capite, in populo manet ut in toto, cujus pars est caput*, * and having an undoubted claim, by the nature of their liberties, to a participation in legislature, had an undoubted right, when

|| Vide Mr. Prince's New-England Chronology; and Lt. Gov. Hutchinson's Hist. of Massachusetts.

* *Grotius de B. & P. lib. 2. c. 9. § 8.*

formed into a state of government, to have a representative legislature established, as part of their government; and therefore when so formed, being a body politic in fact and name, they had within themselves, the King, or his deputy, being part, full power and authority, to all intents and purposes, both legislative and executive, for the government of all the people, whether strangers or inhabitants, within their jurisdiction, independent of all external direction or government, except what might constitutionally be exercised by their sovereign lord the King, or his deputy, and except their subordination, not allegiance, to the government of the realm of England (*ut alterius populi*). They acknowledged themselves to be a government subordinate to the government of England, so that they might justly be restrained from doing or becoming any thing repugnant to the power, rights and interest of England---but held their allegiance as due only to their sovereign; therefore, these premises admitted, as they did on one hand truly measure the duties of this allegiance, by the same rights and claims as the King's English subjects of the realm did; so on the other did they justly maintain that in every exercise of their own rights, privileges and powers,---they were free and independent of all controul, except what was
interwoven

interwoven into their constitution, so as to operate in the internal movements of these powers, or to be externally exercised by the legal powers and negative residing in the King their sovereign, or in his deputy.

They certainly were not provinces in the simple idea of Roman provinces governed by laws and power, not deriving from their own rights, and arising within their own government, but imposed on them by the *imperium alterius populi*, and administered under provincial officers commissioned from this *imperium*, absolute as to them. Our colonies and provinces being each a body politic, and having a right to, and enjoying in fact, a certain legislature, indented rather with the case of the Grecian colonies, as stated by Grotius, — *Huc referenda & discessio quæ ex consensu fit in colonias, nam sic quoque novus populus sui juris nascitur. ἔ γὰρ ἐπὶ τῷ Δῆλοι, ἀλλ' ἐπὶ τῷ ὁμοιοὶ εἶνα. ἐκπέμπουσαι. Non enim ut servi sint sed ut pari jure sint dimituntur.**—Many instances may be collected from Thucydides, which would shew that the dependence of the colonies of Greece on their mother cities, was only the

* It should be remarked here, though Grotius has omitted to do it, That this is a Position of the Locreans, a Colony of Corinth, obviating the Charge of Revolt.

Thucyd. Lib. 1. c. 37.

connection of *Federates* acknowledging precedence, not the subordination of subjects acknowledging allegiance. But having, as above, stated the circumstances of the migration and first settlement of the English colonists, I shall confine myself to the instances and facts of the English colonies.

They were bodies corporate, but certainly not corporations in the sense of such communities *within the realm*. They were erected into provinces, had the *jura regalia*, the patentee as the King's deputy, or the King's governor, as part of their constitution, whether by commission or by charter, was vested with all the same royal powers which the King hath in his palace, both executive and legislative.

These provinces were all, in the true spirit, intent, and meaning of the thing, COUNTIES PALATINE; and some of them were actually and expressly created such.

The Caribbee Islands, granted by Charles the first, in the third year of his reign, to the Earl of Carlisle, were erected into a province or county, by the name of The Province of Carlisle, “ with all and every such
 “ like and so large privileges, jurisdictions,
 “ prerogatives, royalties, liberties, freedoms,
 “ regal

“ regal rights and franchises whatsoever, as
 “ well by sea as land, within the limits of
 “ the said islands, to have, use, exercise,
 “ and enjoy, as any Bishop (according to
 “ the custom of Duresme) within the said
 “ bishoprick or county palatine of Duresme,
 “ in our kingdom of England, ever before
 “ hath, had, keepeth, useth, or enjoyeth,
 “ or of right could or ought to have, keep,
 “ use, or enjoy.”

The grant in 1630, to Sir Robert Heath,
 and his heirs, of the lands now called Lou-
 isiana, ran in the same manner.—“ We
 “ erect the same into a province, and in-
 “ corporate it by the name of Carolanea,
 “ or the province Carolanea, with all and
 “ singular such like, and as ample rights,
 “ jurisdictions, privileges, prerogatives, roy-
 “ alties, liberties, immunities, and franchi-
 “ ses, as well by sea as land, within the
 “ regions, territories, islands, and limits
 “ aforesaid, to have, exercise, use, and en-
 “ joy the same, as any Bishop of Duresme,
 “ in the bishoprick or county palatine of
 “ Duresme, &c. &c.”

In the charter of Maryland is granted as
 follows, “ We have thought fit to erect the
 “ same into a province, with all and singu-
 “ lar the like, and as ample rights, jurif-
 “ dictions,

“ dictions, privileges, prerogatives, royal-
 “ ties, liberties, immunities, royal rights
 “ and franchises, of what kind soever, tem-
 “ poral, as well by sea as by land, within
 “ the country, isles, islets, and limits afore-
 “ said, to have, exercise, use, and enjoy the
 “ same, as amply as any Bishop of Durham
 “ within the bishoprick or county palatine
 “ of Durham, in our kingdom of England,
 “ hath any time heretofore had, held, used,
 “ or enjoyed, or of right ought, or might
 “ have had, held, used or enjoyed.”

The charter of the 15th of Charles the first, to Sir Ferdinando Gorges, erects, creates, and incorporates, all the premises granted into a province or county, called the province or county of Main, granting him all and singular, and as large and ample rights, jurisdictions, privileges, prerogatives, royalties, liberties, and immunities, franchises and preheminiencies, as well by sea as land, within the premises, as the Bishop of Durham hath within the county palatine of Durham.

The charter of Pennsylvania *erects the said country into a province or seignory*, in the recital of the powers of which all the *regalia* are granted ; and especially the power and privilege

privilege of not being taxed but by the consent of the freemen, or in parliament.

By the charter of William and Mary, the provinces of the Massachusetts-bay was "*erected and incorporated into a real province,*" in the powers of which the Jura Regalia are described and fully granted.

All these provinces have the power of peace and war, of exercising law martial, of life and death, of creating towns, counties, and other corporations within themselves; and the powers of their general assemblies are very different from, and go beyond the powers of our common councils within the realm,

The fact is, that the constitution of the government of England, as it stood at that time, founded upon, or built up with the feudal system, could not extend beyond the realm. There was nothing in the nature of the constitution providing for such things as colonies, or provinces. Lands without or beyond the limits of the realm, could not be the property of the realm, unless by being united to the realm. But the people who settled upon these lands in *partibus exteris*, being the King's liege subjects, the King, as sovereign Lord, assumed the right
of

of property, and of government. Yet the people being intitled to the rights, privileges, &c. of freemen, the King established by his commission of government, or charters, these colonies as free states, subordinate according to such precedents or examples as his ministry thought suitable to the present case; and the county palatine of Durham became this precedent, and the model of this constitution as to the *regalia*. This was the actual state of the circumstances of our colonists at their first migration, and of the colonies at their first settlement; and had nothing further intervened, would have been their constitution at this day. Let us examine what has intervened, and mark as precisely as we can, where power has attempted, and where right has effected any change in these circumstances.

Notwithstanding this mode of constitution, acknowledged *de jure*, as well as established *de facto*, we find, that from the moment that these our Kings, and their council, took up the idea of comparing these plantations to the duchies of Gascoigne or Normandy, as we find in the journals of the House of Commons, before referred to. From that moment the constitution of the colonies were treated as being the same with that of Jersey, part of the duchy of Normandy;

and the same mode of administration was adopted for the colonies as had been used and accustomed for the government of that island.

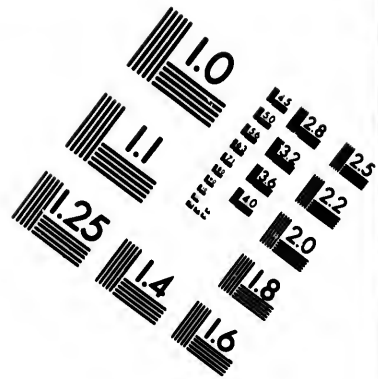
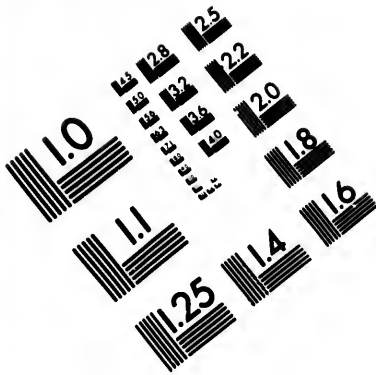
Appeals from the provincial law courts were established; not to the courts of equity here in England, not to the House of Lords, according to the constitution and custom of England, but as appeals from the courts in Normandy were brought before the King, as Duke in council; so here in the plantations, appeals were made to the King in council, according to the ancient custom of Normandy. And the same rules for these appeals were adopted—“ Appeals (says Mr. Falle in his account of Jersey) “ may be
 “ brought before the council board, in mat-
 “ ters of civil property, * above the value of
 “ 300 livres Tournois, but no appeal is ad-
 “ mitted in matters of less value; nor in
 “ interlocutories, nor in criminal causes,
 “ which are judged here to be without
 “ appeal.”

As the laws of Jersey may be reduced under these three heads: 1. The ancient custom of Normandy, as it stood before the alienation of that duchy, called in the rolls of the itinerant judges *La Somme de Mançel*. This makes what the statute law is in England.

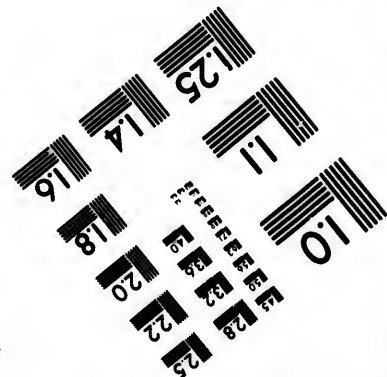
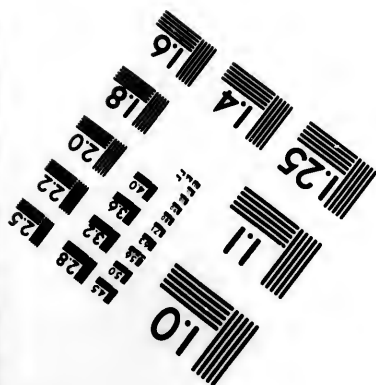
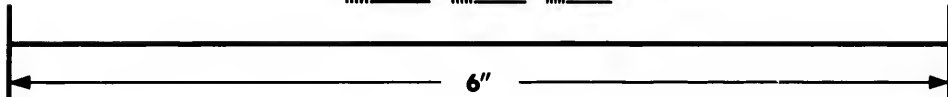
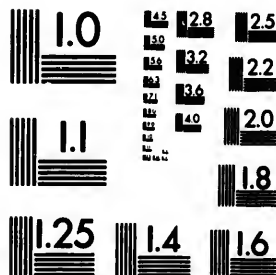
* In the same manner appeals may be brought from the colonies, in matters where the value is £ 300.

2. Muni-





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2. Municipal or local usages, which are the unwritten and traditionary law, like the common law in England. 3. Constitutions and ordinances made by the King, or his commissioners royal ; with such regulations and orders, as are from time to time transmitted to Jersey, from the council board.— So Charles the First took up the idea, that the colonies in like manner, his demesnes in his foreign dominions, might be governed by laws, ordinances, and constitutions, made and published with his consent, * by his royal commissioners, established for governing the plantations, together with such further instructions as should be transmitted from the council board ; and that these commissioners, being his council for plantation affairs, might be the dernier court of appeal from the colonies. He left indeed the colonies in some degree in possession of the statute law of England, as it stood before their migration, and allowed them, as far as was consistent with the legislation of this his council, the making and using their municipal and local laws.

Under these Norman ideas of the constitution of our colonies, it was a most fortunate circumstance for them, That the island

* Vide Appendix, for the Commission at length.

of Jersey had, by its constitution, a right to hold a " convention or meeting of the three " orders or estates of the islands, in imitation " of those august assemblies, known by " that or some other name, in great king- " doms and monarchies, a shadow, and " resemblance of an English parliament." In which, " the King's governor, or lieute- " nant, had a negative voice. The great " business of which meetings, was the raising " money to supply public occasions. For, " (Mr. Falle says) as in England, money " cannot be raised upon the subject, but by " authority of parliament, so here it is a re- " ceived maxim, that no levies can be made " upon the inhabitants, but by their own " consent, declared by their representatives " assembled in common-council." It was fortunate, I say, for our colonies, that this was the case of Jersey; for there can be no other reasonable account given, how our colonies preserved this essential right of Englishmen, but that it happened to be also a constitutional right of his Majesty's foreign French-Norman subjects. This commission indeed was annulled, and a board of plantations (at the head of which, as a marine department, the Earl of Warwick was placed, being admiral) was appointed by an ordinance of parliament; and after the restoration, a council of trade and plantations was established,

established, and upon that being dissolved in December, 1674, these matters were conducted by a committee of council, until after the revolution, when the present board of trade and plantations was appointed. But although, as political liberty became better understood, and more effectually established, in our own constitution, the very idea of a privy council making laws for English subjects, though in America, began to be more warily touched upon, and was at last finally dropped : Yet the idea of directing, restraining, and suspending, in some cases, the exercise of their constitutional powers of government, by the King's further powers and instructions, and authorities under his signet, or sign manual, or by his order in privy council, or even by letters from secretaries of state, doth continue too deeply rooted to this day ; as also this fragment of the Norman custom of appeal to the King, as Duke in council, continues to be the corner-stone in the edifice of their judicatories. From the state of matters as above, it is clear, that so far as refers to the relation between the King and them, while the King by himself, or by his royal commissioners, his council, or his committee, assumed a right to make and publish laws, constitutions, and ordinances, as binding upon, and penal against, the people of the colonies, without the inter-
vention

vention of their legislature. They undoubtedly had a right, and it was their duty to reject them, and to refuse obedience to them; as also to consider all his royal commands and instructions, whether by orders in council, by sign manual, or by letters from secretaries of state, when they assumed the port of laws or ordinances, to be no otherwise binding on the colonies and provinces, than as royal proclamations, which have in many cases, a certain authority, *quoad terrorem*, though not that of law. If the colonists had at their migration, as natural liberties as above described, and were, by the commissions of government or charters (for I see no difference, both equally providing for an uninterrupted and continual succession of civil government) established in the same; no orders or instructions, which might derive thus from the King alone, to the suspending, restraining, or obstructing the enjoyment of these rights and liberties, or the exercise of these powers, could take effect, or have the force of law.

And as thus of the King's power in the government of the colonies, so we may with the stronger reason venture to pronounce that parliament without the King, as by that committee, or board of plantations, instituted by order of parliament in the year 1643,

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could

could have none of those powers which might supercede the rights and liberties of the colonies.

How far the power of King and parliament, the whole imperium of Great Britain, may go in conjunction with right, is matter of more difficulty to ascertain ; and of more danger to decide. If the provinces have any rights, however much subordinate, even this imperium must be bounded by them. However, I have formed my opinion on this subject, and I will speak it out ;—if I am in an error, even error may give occasion to the rise of truth.--But this is not the place.

Having said so much on the liberties of the people in the colonies, it is right, perhaps necessary, to say, I am sure it may be said with the utmost precision and conviction, That the King must retain in himself, and in his deputy set over them in his government of them, all those same preheminences, royal rights, powers and prerogatives, which are vested in the crown, as part of the government of England. And that whenever the people, or their representatives in the colonies, act towards his royal person, or towards his representative, in derogation of these rights and powers, they can neither be justified by right, or the constitution, or even
good

good policy towards themselves, whatever specious temporary reasons they may assign for it ; for this mode of conduct will be permitted to a certain degree only, and for a certain time ; but will alway in the end, as it alway hath in fact done, call forth some remedy, so far as relates to the colonists ideas, worse than the disease. I will instance in one case only---The constant refusal of the Assemblies to fix permanent salaries for the civil establishment of government.

The above is the actual and rightful relation between the King and the American colonies ; and by the rule of this relation, we ought to review and decide those several points wherein the crown, or its Governors acting under its commission and instructions, differ with the people.

Upon such review it will appear, under this first general head, in various instances, that the two great points which the Colonists labour to establish, is the exercise of their several rights and privileges, as founded in the rights of an Englishman ; and secondly, as what they suppose to be a necessary measure in a subordinate government, the keeping in their own hands the command of the revenue, and the pay of the officers of government,

ment, as a security for the conduct of those officers towards them.

Under the first head come all the disputes about the King's instructions, and the governor's power, as founded on them.

The King's commission to his governor, which grants the power of government, and directs the calling of a legislature, and the establishing courts, at the same time that it fixes the governor's power, according to the several powers and directions granted and appointed by the commission and instructions, adds "and by such *further powers, instructions, and authorities, as shall, at any* " time hereafter, be granted or appointed " you, under our signet or sign manual, or " by our order in our privy council." It should here seem, that the same power which framed the commission, with this clause in it, could also issue its *future orders and instructions* in consequence thereof: but the people of the colonies say, that the inhabitants of the colonies are entitled to all the privileges of Englishmen; that they have a right to participate in the legislative power; and that no commands of the crown, by orders in council, instructions, or letters from Secretaries of State, are binding upon them, further than they please to acquiesce under such,

such, and conform *their own actions* thereto; that they hold this right of legislature, not derived from the grace and will of the crown, and depending on the commission which continues at the will of the crown; that this right is inherent and essential to the community, as a community of Englishmen: and that therefore they must have all the rights, privileges, and full and free exercise of their own will and liberty in making laws which are necessary to that act of legislation,—uncontrouled by any power of the crown, or of the governor, preventing or suspending that act; and, that the clause in the commission, directing the governor to call together a legislature by his writs, is declarative and not creative; and therefore he is directed to act conformably to a right actually already existing in the people, &c. and therefore that such clause ought not to be in the commission, or to be understood as being of no effect, so far as concerns the colonists.

When I speak of full uncontrouled independent powers of debate and result, so far as relates to the framing bills and passing them into laws, uncontrouled by any power of the crown or of the governor, as an essential property of a free legislature; I find some persons in the colonies imagine, that I re-

present the colonies as claiming a power of legislature independent of the King's or governor's negative.---These gentlemen knowing that it is not my intention to do injustice to the colonies, wish me so to explain this matter, that it may not bear even the interpretation of such a charge---I do therefore here desire, that the reader will give his attention to distinguish a full, free, uncontrouled, independent power, in the act of legislation,—from a full, free, uncontrouled, independent power, of carrying the results of that legislation into effect, independent either of the Governor's or King's negative. The first right is that which I represent the colonists claiming, as a right essential to the very existence of the legislature: The second is what is also essential to the nature of a subordinate legislature, and what the colonists never call in question. That therefore the point here meant to be stated as in debate, is, Whether a subordinate legislature can be instructed, restricted, and controuled, in the very act of legislation? whether the King's instructions or letters from secretaries of state, and such like significations of his Majesty's will and pleasure, is a due and constitutional application of the governors, or of the royal negative?---The colonists constantly deny it, —and ministry, otherwise such instructions would not be given, constantly maintain it.

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After experience of the confusion and obstruction which this dubitable point hath occasioned to business, it is time surely that it were some way or other determined. Or whether in fact or deed, the people of the colonies, having every right to the full powers of government, and *to a whole legislative power*, are not under this claim entitled in the powers of legislature and the administration of government, to use and exercise in conformity to the laws of Great Britain, the same, full, free, independent, unrestrained power and legislative will in their several corporations, and under the King's commission and their respective charters, as the government and legislature of Great Britain holds by its constitution, and under the great charter.

Every subject, born within the realm, under the freedom of the Government of Great Britain, or by adoption admitted to the same, has an essential indefeasible right to be governed, under such a mode of government as has the unrestrained exercise of all those powers which form the freedom and rights of the constitution; and therefore "the crown cannot establish any colony upon—
"or contract it within *a narrower scale* than
"the subject is entitled to, by the great

“ charter of England*.” The government of each colony must have the same powers, and the same extent of powers that the government of Great Britain has,---and must have, while it does not act contrary to the laws of Great Britain, the same freedom and independence of legislature, as the parliament of Great Britain has. This right (say they) is founded, not only in the general principles of the rights of a British subject, but is actually declared, confirmed, or granted to them in the commissions and charters which gave the particular frame of their respective constitutions. If therefore, in the first original establishment, like the original contract, they could not be established, upon any scale short of the full and complete scale of the powers of the British government,---nor the legislature be established on any thing less than the whole legislative power; much less can this power of government and legislature, thus established, be governed, directed, restrained or restricted, by any posterior instructions or commands by the letters of Secretaries of State. But upon the supposition, that a kind of general indetermined power in the crown, to superadd instructions to the commissions and charter be admitted, where the colonists do

* Historical Review of the Constitution and Government of Pennsylvania, p. 11.

not make a question of the case wherein it is exerted, yet there are particular cases wherein both directive and restrictive instructions are given, and avowedly not admitted by the colonists. It is a standing instruction, as a security of the dependence of the government of the colonies, on the mother country, that no acts wherein the King's rights, or the rights of the mother country or of private persons can be affected, shall be enacted into a law without a clause suspending the effect thereof, till his Majesty's pleasure shall be known. This suspending clause is universally * rejected on the principles above, because such suspension disfranchises the inherent full power of legislature, which they claim by their rights to the British liberties, and by the special declarations of such in their charters. It does not remove this difficulty by saying, that the crown has already in its hands the power of fixing this point, by the effect of its negative given to its governor. It is said, that if the crown should withdraw that instruction, which allows certain bills to be passed into laws with a suspending clause, which instruction is not meant as a restriction upon, but an indulgence to the legislatures; that if the crown

* In some cases of emergency, and in the cases of the concerns of individuals, the instruction has been submitted to, but the principle never.

should

should withdraw this instruction, and peremptorily restrain its governor from enacting laws, under such circumstances as the wisdom of government cannot admit of, that then these points are actually fixed by the true constitutional power; but wherever it is so said, I must repeat my idea, that this does not remove the difficulty. For waving the doubt which the colonists might raise, especially in the charter colonies, how far the governor ought, or ought not, to be restricted from giving his assent in cases contrary only to instructions, and not to the laws of Great Britain; waving this point, let administration consider the effects of this measure. In cases where the bills, offered by the two branches, are for providing laws, absolutely necessary to the continuance, support, and exercise of government, and where yet the orders of the crown, and the sense of the people, are so widely different as to the mode, that no agreement can ever be come to in these points---Is the government and administration of the government of the colonies to be suspended? The interest, perhaps the being of the plantations, to be hazarded by this obstinate variance, and can the exercise of the crown's negative, in such emergencies, and with such effect, ever be taken up as a measure of administration? And when every thing is thrown into confusion,

fusion, and abandoned even to ruin by such measure, will administration justify itself by saying, that it is the fault of the Colonists? On the contrary, this very state of the case shows the necessity of some other remedy.

In the course of examining these matters, will arise to consideration the following very material point. As a principal tie of the subordination of the legislatures of the colonies on the government of the mother country, they are bound by their constitutions and charters, to send all *their acts* of legislature to England, to be confirmed or abrogated by the crown; but if any of the legislatures should be found to do almost every act of legislature, by votes or orders, even to the repealing the effects of acts, suspending establishments of pay, paying services, doing chancery and other judicatory business: if matters of this sort, done by these votes and orders, never reduced into the form of an act, have their effect without ever being sent home as acts of legislature, or submitted to the allowance or disallowance of the crown: If it should be found that many, or any of the legislatures of the colonies carry the powers of legislature into execution, independent of the crown by this device,—it will be a point to be determined how far, in such cases, the subordination of the legislatures of the colonies to the government of the mother country

country is maintained or suspended ;—or if, from emergencies arising in these governments, this device is to be admitted, the point, how far such is to be admitted, ought to be determined ; and the validity of these votes and orders, these Senatus-Consulta so far declared. For a point of such great importance in the subordination of the colony legislatures, and of so questionable a cast in the valid exercise of this legislative power, ought no longer to remain in question.

The next general point yet undetermined, the determination of which very essentially imports the subordination and dependance of the colony governments on the government of the mother country, is, the manner of providing for the support of government, and for all the executive officers of the crown. The freedom and right efficiency of the constitution require, that the executive and judicial officers of government should be independent of the legislative ; and more especially in popular governments, where the legislature itself is so much influenced by the humours and passions of the people ; for if they do not, there will be neither justice nor equity in any of the courts of law, nor any efficient execution of the laws and orders of government in the magistracy : according, therefore, to the constitution

tution of Great Britain, the crown has the appointment and payment of the several executive and judicial officers, and the legislature settles a permanent and fixed appointment for the support of government and the civil list in general: The crown therefore has, *à fortiori*, a right to require of the colonies, to whom, by its commission or charter, it gives the power of government, such permanent support, appropriated to the offices, not the officers of government, that they may not depend upon the temporary and arbitrary will of the legislature.

The crown does, by its instructions to its governors, order them to require of the legislature a permanent support. This order of the crown is generally, if not universally rejected, by the legislatures of the colonies. The assemblies quote the precedents of the British constitution, and found all the rights and privileges which they claim on the principles thereof. They allow the truth and fitness of this principle in the British constitution, where the executive power of the crown is immediately administered by the King's Majesty; yet say, under the circumstances in which they find themselves, that there is no other measure left to them to prevent the misapplications of public money, than by an annual voting and appropriation of the salaries

ries of the governor and other civil officers, issuing from monies lodged in the hands of a provincial treasurer appointed by the assemblies: For in these subordinate governments, remote from his Majesty's immediate influence, administered often times by necessitous and rapacious governors who have no natural, altho' they have a political connection with the country, experience has shewn that such governors have misapplied the monies raised for the support of government, so that the civil officers have been left unpaid, even after having been provided for by the assembly. The point then of this very important question comes to this issue, Whether the inconveniencies arising, and experienced by some instances of misapplications of appropriations (for which however there are in the King's courts of law, due and sufficient remedies against the offender) are a sufficient reason and ground for establishing a measure so directly contrary to the British constitution: and whether the inconveniencies to be traced in the history of the colonies, through the votes and journals of their legislatures, in which the support of governors, judges, and officers of the crown will be found to have been withheld or reduced on occasions, where the assemblies have supposed that they have had reason to disapprove the nomination,—or the person, or his conduct;—whether,

whether, I say, these inconveniencies have not been more detrimental, and injurious to government; and whether, instead of these colonies being dependent on, and governed under, the officers of the crown, the scepter is not reversed, and the officers of the crown dependant on and governed by the assemblies, as the Colonists themselves allow, that this measure * “ renders the governor, “ and all the other servants of the crown, “ dependant on the assembly.”---But the operation of this measure does not end here; it extends to the assuming by the assemblies the actual executive part of the government in the case of the revenue, than which nothing is more clearly and unquestionably settled in the crown. In the colonies the treasurer is solely and entirely a servant of the assembly or general court; and although the monies granted and appropriated be, or ought to be, granted to the crown on such appropriations, the treasurer is neither named by the crown, nor its governor, nor gives security to the crown or to the Lord High Treasurer, (which seems the most proper) nor in many of the colonies, is to obey the governor’s warrant in the issue, nor accounts in the auditor’s office, nor in any one colony is it admitted, that he is liable to such account. In consequence of this supposed ne-

* Smith’s History of New York, p. 118.

cessity,

cessity, for the assembly's taking upon them the administration of the treasury and revenue, the governor and servants of the crown, in the ordinary revenue of government, are not only held dependant on the assembly, but all services where special appropriations are made for the extraordinaries which such services require, are actually executed and done by commissioners appointed by the assembly, to whose disposition such appropriations are made liable. It would be perhaps invidious, and might tend to prejudging on points which ought very seriously and dispassionately to be examined, if I were here to point out in the several instances of the actual execution of this assumed power, how almost every executive power of the crown lodged in its governor, is, where money is necessary, thus exercised by the assembly and its commissioners. I therefore rest the matter here.

In the first edition of this book I pointed out the measure of the government's settling fixed salaries on the officers of the crown in America, independant of the people. I afterwards withdrew this proposition, from an apprehension of the evils which might arise to the service by these fixed and permanent salaries, having a tendency to render the chief offices sinecures, procured by
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the corruptors for the corrupted, in rever-
 sions, from generation to generation. This
 measure, hath been since established by par-
 liament. But why, those who had the con-
 duct of it would not admit a clause, providing
 that such salaries, hereafter to be esta-
 blish'd, should be given to no person but to
 such as actually executed the office; is not
 very easy to conceive, unless from suggestions
 that one would not willingly take up against
 the integrity of their intentions:---If that
 act should ever be explained, or amended
 by any subsequent law, it is to be hoped,
 that this clause would not again be omit-
 ted:

The same motive, and reason which
 weigh'd with government, to adopt this
 measure of fixing salaries for the civil of-
 ficers of the crown in America during the
 time of their serving, should operate, to in-
 duce government to take one step further,
 in order to render the measure quite effec-
 tual, that is, to settling some half-pay or
 other pension, on such officers as are from
 age or ill health removed; or after long
 services in that country; are permitted to
 return home. The appointments of the
 governors &c. are such; wherein no for-
 tunes can either be made, or saved with
 honor:---If they have no fortunes of their
 own,

own, they must, after their services, return home to starve. "There is no man" (says an American, the intelligent author of the Historical Review of Pennsylvania) "long, or much conversant in this overgrown city [London] who hath not often found himself in company with the shades of departed governors, doomed to wander out the residue of their lives, full of the agonizing remembrance of their past eminence, and the severe sensation of present neglect. *Sir William Keith*, upon his return, was added to this unfortunate list, concerning whom, the least that can be said is, that either none but men of fortune should be appointed to serve in such distinguish'd offices; or otherwise for the honor of government itself, such as are recalled without any notorious imputation on their conduct should be preserved from that wretchedness and contempt which they have been but too frequently permitted to fall into, for want even of a proper subsistence."---The means of avoiding this wretched issue of their service, by making up a fortune to live on when they shall be recalled, is a temptation which ought to be removed from this situation, by those who regard the King's service, even if they have no feelings of compassion for his servants.---A small pitance

tance would pay this, and that very sum might engage the services of these half-pay officers in a way not unuseful to government.---They might, in consideration of this pay, be directed to attend the Board of trade or whatever board or officer was for the time being, the acting minister for the business of America, in order to give explanations, or opinions, as they should be required; or even to report, if ever they should be thought worthy to have any matter, requiring a report, refer'd to them; they might be formed into a kind of subordinate board for this purpose.---The benefit of such a measure needs not to be expatiated upon, and to explain the operation of it would be too minute a detail for the cursory mention which I here make of it.

It is a duty of perfect obligation from government towards the colonies, to preserve the liberty of the subject, the liberty of the constitution: It is a duty also of prudence in government towards itself, as such conduct is the only permanent and sure ground, whereon to maintain the dependance of those countries, without destroying their utility as colonies.

The constitutions of these communities, founded in wise policy, and in the laws of
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the British constitution, are established by their several charters, or by the King's commission to his governors, being in the nature of a charter of government. In these, all the just powers of government are described and defined, the rights of the subject and of the constitution declared, and the modes of government agreeable thereto established. As these pass under the great seal, no jurisdictions or offices will be inserted in the powers granted, but what are agreeable and conformable to law, and the constitution of the realm. Although the King's commission is barely a commission during pleasure, to the person therein named as governor, yet it provides for a succession without vacancy, or interregnum, and is not revoked but by a like commission, with like powers: It becomes the known, established constitution of that province which hath been established on it, and whose laws, courts, and whole frame of legislature and judicature, are founded on it: It is the charter of that province: It is the indefeasible and unalterable right of those people: It is the indefeasible right by which those colonies thus established, are the colonies of Great Britain, and therefore not to be altered; but by such means as any reform or new establishment may take place in Great Britain: It cannot, in its essential parts, be altered or destroyed
by

by any royal instructions or proclamation ; or by letters from secretaries of state : It cannot be superceded, or in part annulled, by the issuing out of any other commissions not known to this constitution.

In these charters, and in these commissions, the crown delegates to the governor for the time being, all its constitutional power and authority civil and military—the power of legislation so far as the crown has such—its judicial and executive powers, its powers of chancery, admiralty jurisdiction, and that of supreme ordinary.—All those powers, as they exist and reside in the crown, are known by the laws and courts of the realm, and as they are derived to the governors are defined, declared, and *patent*, by the charters and commissions *patent*. It is therefore the duty and true interests of the Colonists to maintain these rights, these privileges, this constitution : It is moreover the duty and true interest of King, Lords, and Commons, to be watchful over, to support and defend these rights of the colonies : It is the duty of administration to have constant regard to the exercise of them, otherwise it will be found a dangerous thing to have given so much of civil power out of the King's hands, and to have done so little to maintain those into whose hands it is entrusted. How far the

establishment of the office and power of a military commander in chief, not subordinate but superior to these constitutional commanders in chief, how far the superceding of the *Consular* power of the Governors, by establishing, not for the time of war only, but as a settled system, this *Dictatorial* power, with a jurisdiction extending over the whole of the British empire in America, is conformable to law, to prudence, or sound policy, is matter of very serious consideration to those who regard the liberties of the constitution.

All military power whatsoever, as far as law and the constitution will justify the establishment of such, is resident in the established office of governor, as Captain general and commander in chief. There is no power here granted, but what is specified and defined by the nature of the constitution. The subject and state is duly guarded against any extensions of it, by the several laws which the legislatures of the several colonies have provided to limit that power; and it can be exercised by none but such persons as are within the jurisdiction of the province, who deriving their powers from the supream powers are amenable to the laws of the province; and to the governor, who is himself specially responsible for the trust. This power thus limited becomes part of the constitution of the province, and unless thus limited,

limited, and thus considered as part of the constitution of the government, it may be matter of great doubt, whether the crown would be advised to erect any military powers whatever. But under such limitations, and as a known established part of the constitution, the crown may safely grant these powers, and the people safely live under them, because the governor is " required " and commanded to do and execute all " things in due manner, that shall belong " unto *the trust* reposed in him, according " to the several powers and authorities mentioned in the charter." That is to say, according to those powers which in charter governments are expressly part of the constitution; and which from the very nature of the *commission patent* in such constitutions as are called King's governments, are likewise to be considered in the same light.—

When this military branch of the governor's office is established and received as part of the constitution, the King may safely grant, and the people safely act under " a power " to levy, arm, muster, command, and " employ all persons whatsoever residing " within such province; to resist and repel " both at land and sea, all enemies, pirates, " and rebels, and such to pursue in or out " of the limits of the province: to erect and " build forts, to fortify and furnish, and to

“ commit the command of the same to such
 “ person or persons as to such governor shall
 “ seem meet—and the same again to dis-
 “ mantle or demolish: and to do and execute
 “ all and every other thing which to a cap-
 “ tain general doth or ought of right to be-
 “ long, as fully and amply as any other the
 “ King’s captains general doth or hath usual-
 “ ly done, according to the powers in the
 “ commission and charter granted.” It be-
 comes hence a question of the highest import,
 and leading to the most dangerous consequences
 —Whether, after the constitutions and offices
 of a colony or province are thus established,
 the King himself can dismember the same,
 so as to grant to any office or officer not
 known to the constitution, any part whatso-
 ever of those powers, as he cannot dis-
 franchise a people having such powers, un-
 der such charters, of any the least right or
 privilege included in, or as derived from,
 the establishment of their constitution of
 government? This is a question that it
 would behove the crown lawyers well to
 consider, whenever it shall be referred to
 their consideration. If every military power
 that can legally be included in any commis-
 sion which the crown will be advised to issue,
 is already included in the office of governor,
 as part of the constitution of these provinces
 and colonies, what commission can supercede
 the

the same, or give power to any other officer than the governor to exercise these powers within such province? It was suggested by the writer of these papers at the beginning of the late war, that *if the necessity of the case in time of war* urged to the appointing a military commander in chief of all North America, who should command all military operations, and preside in general over all military establishments for the general service, independent of, and superior to, the powers and authorities already granted to the governors and captains general of the provinces,—it was suggested, that no commissions under the private seal and sign manual could supercede, revoke, or take precedence of these powers granted by letters patent under the great seal, and it was determined accordingly, that the military commander in chief must have his commission patent under the great seal. But when it came to be considered what powers should be granted in this commission, the wisdom and prudence of the great statesman and lawyer who was then entrusted with that seal, issued the commission for the commander in chief, in general and indefinite terms, “ to have, “ hold, exercise, and enjoy the said office during pleasure, together with all the powers, “ authorities, rights and privileges, thereunto “ belonging, subject however to such restrictions, limitations, and instructions, as are “ given, or to be given, from time to time, “ under

“ under the royal sign manual, and charging
“ and requiring all the governors, lieutenant
“ governors, deputy governors, and presi-
“ dents of the council of the respective co-
“ lonies and provinces of North America,
“ and all other officers civil or military with-
“ in the same, to be aiding and assisting in
“ this command.” These general powers
undefined and unknown, and such as no
minister who advises the issuing such com-
mission will venture to describe, these ge-
neral words, power and command, either
mean nothing, or suppose every thing, when
a justifiable occasion, or perhaps a coloura-
ble pretext calls for the exercise of them. It
was seen that these general descriptions were
either dangerous or nugatory, and therefore
the commander in chief had at the same time,
another commission under the private seal and
sign manual, in which were inserted all the
powers for governing the forces, &c. which
were not thought proper to be included and
granted by letters patent under the great
seal. I am no lawyer, and do not therefore
presume to give an opinion of decision, but
venture to affirm, that it ought well to be
considered, Whether if this commission be
now in time of peace interpreted to extend
to any one purpose at all, it must not extend
to much more than can be justified by either
law or the constitution? Whether (the con-
stitutions of the provinces and colonies re-
maining)

maining) the office of a commander in chief exercising such powers as are supposed necessary to the execution of that command, can be established over all North America? These military powers, as they exist in the governor's commission, exist and must be exercised under the civil limitations and regulations of the constitution, nor can any law martial, or any other military ordonnances be published, without the concurrence of the other branches of the legislature. But the difference of this *dictatorial power* of a military commander in chief, and the *consular power* of the provincial governor, can not be better described than in the following passage: *Ea potestas (scilicet dictatoria) per senatum more Romano magistratui maxima permittitur, exercitum parare, bellum gerere, coercere omnibus modis socios atque cives: domi militiaeque imperium atque iudicium summum habere: aliter sine populi jussu nullius earum rerum consuli jus est* *.

If it should upon consideration and advice, of which I am no judge, be found that the dictatorial power and command of a military commander in chief, superior to the provincial governors (however necessity, in time of war, might justify it, *ne quid respublica detrimenti capiat*) is not agreeable and conformable to law, and to the constitution ci-

* Sallust, Bellum Catilinarium.

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ther of Great Britain or of the colonies in time of peace ; it may be supposed that such will not be continued in time of peace, and that as soon as the * hostile state of Indian affairs ceases, this power will be made to cease also.

In the considerations above, I have suggested the doubt ; whether this commission may be right as to law and the constitution. But if there be only a doubt of its legality, and there no longer remains an absolute necessity for the continuance of it ; I think it may be fairly made to appear, that neither prudence nor sound policy can justify it.

Such powers with such a command may be dangerous to the liberty of the subject, to the liberties of the constitution of the colonies on one hand : And on the other hand, there are no people in the whole world, when their liberties shall become infected and undermined, so liable to become the instruments of dominion, as a people who have lived under a free and popular government. This has been the fate of the free states of Greece and Italy ; this the fate of Rome itself :—But may heaven avert, that this ever becomes the state of the British colonies.

* The first edition of this book was published during the continuance of the hostilities of the Indians, after the General Peace amongst the Europeans. That hath ceased.

There is not, there cannot be any danger in this power at present in any degree;---but thus planted when it comes to grow, *occulto velut arbor ævo*, when it has taken root, and has spread its branches through the land, it will soon overtop and overshadow all the weaker, humbler shoots of civil liberty. Set once this lord of the forest on a permanent footing, it will soon have, as Mr. Harrington says, "Toes that have roots, and arms that will bring forth what fruit you please."

It is a common observation, but it is as trivial as common, which supposes the danger of the colonies revolting, and becoming independent of the mother country. No one colony can by itself become so—and no two under the present state of their constitutions, have any possible communion of power or interest that can unite them in such a measure; they have not the means of forming such; they have neither legislative nor executive powers, that are extended to more than one; the laws of one extend not to the other; they have no common magistracy, no common command, in short, no one principle of association amongst them: On the contrary, as I have said elsewhere, the different manner in which they are settled, the different modes under which they live, the different forms of charters, grants, and frame of government which they possess,

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the various principles of repulsion that these create, the different interests which they actuate, the religious interests by which they are actuated, the rivalship and jealousies which arise from hence, and the impracticability, if not impossibility, of reconciling and accommodating these incompatible ideas and claims, will keep the several provinces and colonies perpetually independent of, and unconnected with each other, and dependent on the mother country. The particular danger here meant to be pointed out, is that of furnishing them with a *principle of union*, disunited from the civil constitution, by establishing a military commander in chief over the whole. If ever the colonies revolt, and set up an empire in America, here begins the history of it; from this period as from the first dynasty, will future historians deduce their narrative. The Romans, as long as they governed their provinces by the vigour of policy, preserved their dependence, and see what that policy was.---I will produce two instances, one in Italy, the other in Greece; *Cæterùm habitari tantùm, tanquam urbem, Capuam, frequentarique placuit: corpus nullum civitatis nec senatûs, nec plebis concilium, nec magistratus esse, sine consilio publico, sine imperio, multitudinem nullius rei inter se sociam ad consensum inhabilem fore**.

* Liv. lib. 26. § 16. lib. 45. § 30.

The other is as follows, after the Romans had entirely overcome Perseus, and reduced all Macedonia, they restore it to its liberty ; but to disarm that liberty of all power of revolt, they divide Macedon into four regions or provinces, not barely by boundary lines, and geographical distinctions, but by dissevering and separating their interests ; *divisæ Macedonia, partium usibus separatis, et regionalim commerciis interruptis* †.

Under this policy they preserved their provinces and maintained the empire of Rome ; but when they took up the false policy of establishing and continuing, in time of peace, military commanders in chief in their provinces, the people of the provinces became an army, and that army subverted the empire. “ By how much the more remote (says Machiavell) their wars were, by so much they thought those prorogations more convenient, by which it happened that the commander might gain such an interest in the army, as might make it disclaim the

† I beg that it may be here understood, that while by this example, I mean to point the danger of giving any principle of union amongst the several colonies, and the sure wisdom of keeping this disunion of council and imperium amongst them, I do from principles of policy as well as those of strict justice, invariably recommend the preservation of their respective constitutions, in the full use and exercise of all their rights and privileges.

power

power of the senate." Publius Philo was the first to whom his military commission was prolonged, and this precedent once settled, we hear next of the soldiers in Spain declaring L. Marcius imperator in the field. *Res mali exempli imperatores legi ab exercitibus et solenne auspicatorum comitiorum in castra et provincias, procul ab legibus magistratibusque, ad militarem temeritatem transferri* †. " This " it was that enabled Marius and Sylla to " debauch the army ; this it was that enabled Cæsar to conquer his native country. " It may be objected, that their great affairs " could not have been managed at so great " a distance, without such commands.—It " is possible indeed, that their empire might " have been longer before it came to that " height, but then it would have been " more lasting ; for the adversary would " never have been able to have *erected a* " *monarchy* and destroyed their liberty so " soon."—This power, monarchical from its very nature, may have been dangerous to a commonwealth, and have ruined the republic by establishing a monarchy upon it ; but it will be asked, How can this ever be the case in a regulated monarchy ? Can it be supposed that any future King can ever wish to change that constitution in which his power is established ? Can it be supposed that

† Lib. 26. § 2.

a free people could ever be so wild as to put themselves under an unbounded military power, in order to become independent of a limited and civil power? What may be the turn of future events, Heaven only knows; yet experience has taught us that former Kings have thus mistaken their real interest, and former people have been driven to this distraction: And if, on any such future occasion, there should be found established by repeated and continued custom, by unresisted precedents, the office of commander in chief of all North America, not only in the possession, but in the actual exercise of these powers:—*Exercitum parare—bellum gerere—coercere omnibus modis socios atque cives—* He might like another Monck, in such critical situation, give the turn to the balance, and negotiate, either with the prince, or the people, as his inclinations and interests lead him, for the liberties of Great Britain.— If in any future period of events the fate of war should reduce Great Britain to struggle for its rights, its power, perhaps, its safety, on terms hardly equal, with all its force, to its support in Europe: And in the course of that struggle, there be established in North America a commander in chief, with an army at his command; with a degree of authority presiding over the civil power, and civil governors; with an extent of

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command capable of associating and uniting a number of powers, otherwise, incapable of such union; if such a man, at such a crisis, should have ambition enough to wish, and spirit enough to dare to set up an independent empire in America, he could want, in such crisis, no support that a wise and artful enemy to Great Britain would not give him: *Nunc illud esse tempus occupandi res dum turbata omnia novâ atque inconditâ libertate essent, dum regis stipendiis passus obversaretur miles, dum ab Annibale missi duces assueti militibus juvare possent incepta**. The enemy could not wish better ground, than such an establishment so circumstanced at such a crisis, nor could take a more effectual measure for the ruin of Great Britain, than setting up and supporting an American empire; for there could be no doubt of the success of the measure, and no doubt of its effect.

The present government found already established, from the necessity of things in the state of the last war, such a power—and as the effects of that war in America can not be said wholly to cease, † while the Indian affairs wear such an hostile appearance, this power is for the present continued: But we may confide in the true genuine principles of

* Liv. lib. 24. § 24.

† This is not the case now, 1768.

liberty, which animate the royal breast; we may trust in the wisdom and prudence of the King's ministry,—that no such officer as that of a military commander in chief, presiding over all North America, and preceeding in military matters, and in the power necessary to the execution of that command, the constitutional power of governor; we may trust, * I venture to say, that no such office will ever be made an establishment *in time of peace*. Regular troops are in the same manner and degree necessary in North America, as in Britain or Ireland;—but we shall see them established there under the same relations to the civil power as in Ireland; we shall see again the civil governments, as established under commissions patent, and charters, predominate. If I, a private person, and wholly removed from all advice or consultation with ministry, might be permitted to indulge a conjecture, I would suppose, from some leading measures which are already taken, of dividing the American army into commanderies, and putting a stop to draughts on general contingencies, that the danger and expence of the office of commander in chief, will soon cease: and that the several commandants of the troops appointed, each to their respective districts, having every power necessary for the dis-

* I could venture to say so much when this was first written, and had grounds for what I said.

cipline and government of the regular forces under their command, will be established in the same relation and subordination to the civil power of that government, within which their command lies, as the commander in chief in Ireland stands to the supreme civil power of Ireland:—and that as a commander in chief of those forces may in case of the commencement of hostilities, or of actual open war, be again necessary;—if such necessity appears first here in Europe, his Majesty will immediately appoint such, and that if such necessity should appear first in America, there will be proper provision and regulations made for the giving effect to such necessary powers, *without leaving it to the judgment or will of the army to say when that is necessary, or what powers in such case, are necessary.*—The several governors of the colonies should have instructions, in case of such emergency, to meet, and in council to give effect to this command, with such powers as they shall judge necessary and safe to a General commanding in chief, until his Majesty's pleasure can be known; that is to say, power of engaging in general expences, of ordering embargoes, of demanding vessels and carriages, of calling upon the several governments for their aid in troops, &c. of preparing an army, of taking possession of all posts, forts, and castles, (which in the ordinary

ordinary course of the King's charters and commissions patent to his governors, must otherwise be under their commands—and cannot be taken from them, unless the charters of the government can be superceded) of having the command and disposal of all military stores—none of which powers ought to reside in any one office, whose jurisdiction extends over all North America, and preceeds the civil power of governor—unless in such case of necessity—unless confirmed (until his Majesty's pleasure can be known) by such council, and under such restrictions as the prudence of that council would see proper. Under such an establishment, every case of service that could arise is provided for, and every case of danger that might arise from a predominant military power, is guarded against.

I must the rather suppose that the military establishment will have that mode given to it; as already the commander in chief, as the commission now stands, is instructed in “making any such preparations as shall be necessary, and are not contained in his instructions, that he shall take the opinion and assistance of the governors.”

A review and settlement of doubted points is no where more necessary, than in the

maxims and rules of their law, and the state of their courts. It is a rule universally adopted through all the colonies, that they carried with them to America the common law of England, with the power of such part of the statutes (those concerning ecclesiastical jurisdiction excepted) as were in force at the time of their establishment; but, as there is no fundamental rule whereby to say, what statutes are admissible, and what not, if they admit all, they admit the full establishment of the ecclesiastical jurisdiction, from which they fled to this wilderness for refuge;—if they once make a distinction of admitting some, and rejecting others, who shall draw the line, and where shall it pass? Besides, as the common law itself is nothing but the practice and determination of courts on points of law, drawn into precedents; where the circumstances of a country and people, and their relation to the statutes and common law differ so greatly, the common law of these countries, must, in its natural course, become different, and sometimes even contrary, or at least incompatible, with the common law of England, so as that, in some cases, the determinations arising both from the statute and common law *must be rejected*. This renders the judicatories of these countries vague and precarious, dangerous, if not arbitrary: This leads necessarily (let what
care

care will be taken, in forming and enacting their provincial laws) this leads to the rendering the common law of the country different, incompatible with, if not contrary to, and independent of, the law of the mother country, than which nothing can be more disadvantageous to the subject, and nothing more derogatory from the power of the government of the mother country, and from that fundamental maxim, that the colonists shall have no laws contrary to those of the mother country.

I cannot avoid quoting here at length, a very precise and just observation of the author of the history of New York. “ The
 “ state of our laws opens a door to much
 “ controversy. The uncertainty with re-
 “ spect to them, renders property precari-
 “ ous, and greatly exposes us to the arbi-
 “ trary decision of bad judges. The com-
 “ mon law of England is generally received,
 “ together with such statutes as were enact-
 “ ed before we had a legislature of our own ;
 “ but our courts exercise a sovereign autho-
 “ rity in determining, *what parts of the*
 “ *common and statute law* ought to be ex-
 “ tended ; for it must be admitted, that the
 “ difference of circumstances necessarily re-
 “ quires us, in some cases, to *reject* the de-
 “ termination of both. In many instances,
 H 4 “ they

“ they have also extended even acts of parliament, passed since we have had a distinct legislation, which is greatly adding to our confusion. The practice of our courts is not less uncertain than the law. Some of the English rules are adopted, others rejected. Two things therefore seem to be absolutely necessary for the public security.

“ First, *The passing an act for settling the extent of the English laws.*

“ *Secondly, That the courts ordain a general set of rules for the regulation of the practice.*”

From this representation of things, by an eminent practitioner in those courts, it must be seen that something is wanting, to fix determinately the judicial powers.—But from a further review made by government here, it will be found that much more is wanting.—First, to determine (I do not at all take into consideration which way it be determined, only) I say, to determine some points on this head, which are, and will otherwise remain in dispute; but which ought by no means to be suffered one moment to remain in dispute.

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The crown directs its governor to erect courts and appoint the judges thereto.---The actual appointment of the judges is no where *directly* disputed.---But the power of erecting courts, according to this instruction, is, I believe, universally disputed; it being a maxim universally maintained by the Colonists, that no court can be erected but by act of legislature.---Those who reason on the side of the crown,---say,---that the crown does not, by erecting courts in the colonies, claim any right of enacting the jurisdiction of those courts, or the laws whereby they are to act.---The crown names the judge, establishes the court, but the jurisdiction is settled by the laws of the realm; ---and “ * customs, precedents, and common judicial proceedings of a court are a law to the court, and the determination of courts make points to be law.”---The reasoning of the Colonists would certainly hold good against the erection of any new jurisdiction, established on powers not known to the laws of the realm; but how it can be applied to the opposing the establishment of courts, the laws of whose practice, jurisdiction and powers are already settled by the laws of the realm, *is the point in issue, and to be determined.* It will then be fixed, beyond dispute, whether the crown can, in

* Rep. 16. 4. Rep. 53. fol. 298.

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its colonies, erect, without the concurrence of the legislature, courts of Chancery, Exchequer, King's Bench, Common Pleas, Admiralty, and Probate or Ecclesiastical courts.—If it should be determined in favour of the reasoning, and the claims of the Colonists,—I should apprehend that the consideration of the points under this head, would become an object of government here, even in its legislative capacity.—In which view it may be of consequence to consider, how far, and on what grounds, the rights of the crown are to be maintained by courts of King's Bench, &c. and how far the revenues by courts of Exchequer, and how far the crown and subject may have relief by courts of equity.---If in this view we consider the defects which must be found in Provincial courts, those point out the necessity of the establishment of a remedial general court of Appeal; but if we view the only mode of appeal, which at present exists, we shall see how inapplicable, how inadequate that court is. I cannot, in one view, better describe the defects of the provincial courts in these infant governments, than by that very description which my Lord Chief Justice Hales gives of our county courts, in the infancy of our own government, wherein he mentions,

“ *First,*

“ *First*, The ignorance of the judges, who
“ were the freeholders of the county.

“ *Secondly*, That these various courts bred
“ variety of law, especially in the several
“ counties, for the decisions or judgments
“ being made by divers courts, and several
“ independent judges and judicatories, who
“ had no common interest amongst them
“ in their several judicatories, thereby in
“ process of time, every several county
“ would have several laws, customs, rules,
“ and forms of proceedings.—

“ *Thirdly*, That all the business of any
“ moment was carried by parties and fac-
“ tions, and that those of great power and
“ interest in the county did easily overbear
“ others in their own causes, or in such
“ wherein they were interested, either by
“ relation of kindred, tenure, service, de-
“ pendence, or application.”

Upon the first article of this parallel, it
will be no dishonour to many gentlemen sit-
ting on the benches of the courts of law in
the colonies, to say, that they are not, and
cannot be expected to be lawyers, or learned
in the law. And on the second article it is
certain, that although it be a fundamental
maxim of colony administration, that the
colonies

colonies shall have no laws contrary to the laws of Great Britain, yet, from the fluctuation of resolutions, and confusion in the construction and practice of the law in the divers and several colonies, it is certain, that the practice of their courts, and their common law, must be not only different from each other, but in the consequence different also from that of Great Britain. In all the colonies the common law is received as the foundation and main body of their law; but each colony being vested with a legislative power, the common law is thereby continually altered; so that (as a great lawyer of the colonies has said) “ by reason of the diversity of the resolutions, in their respective superior courts, and of the several new acts or laws made in them severally; the several systems of the laws of those colonies grow more and more variant, not only from one another, but also from the laws of England.”

Under the third article, I fear experience can well say, how powerfully, even in courts, the influence of the leaders of party have been felt in matters between individuals. But in these popular governments, and where every executive officer is under a dependence for a temporary, wretched, and I had almost said, arbitrary support to the deputies of the
people,

people,---it will be no injustice to the frame of human nature, either in the person of the judges, of the juries, or even the popular lawyer to suggest, how little the crown, or the rights of government, when opposed to the spirit of democracy, or even to the passions of the populace, has to expect of that support, maintainance, and guardianship, which the courts are even by the constitution supposed to hold for the crown---Nor would it be any injustice to any of the colonies, just to remark in this place, how difficult, if ever practicable it is in any of their courts of common law to convict any person of a violation of the laws of trade, or in any matter of crown revenue. Some of our acts of parliament direct the prosecution and punishment of the breach of the laws of trade, to take its course in the courts of Vice-admiralty: And it has been thought by a very great practitioner, that if the laws of trade were regulated on a practicable application of them to the state of the colony trade, that every breach of them should be prosecuted in the same way. That there should be an advocate appointed to each court from Great Britain, who, having a proper salary independent of the people, should be directed and empowered to prosecute in that court, not only every one who was an offender, but also every officer of the customs, who
 through

through neglect, collusion, oppression, or any other breach of his trust became such. --- Here I own, was it not for the precedent already established by some of the laws of trade, I should doubt the consistency of this measure with the general principle of liberty, as established in the trials by a jury in the common law courts. If these precedents can reconcile these proceedings to the general principles of liberty, there can be no more effectual measure taken; yet such precedents should be extended with caution: The defect in most, and actual deficiency in many of the colonies, of a court of equity; does still more forcibly lead to the necessity of the measure of some remedial court of appeal and equity.---In all the King's governments so called,—the governor, or governor and council are the chancellor, or judges of the court of chancery.---But so long as I understand that the governor is, by his general instruction, upon sound principles of policy and justice, restrained from exercising the office of judge or justice in his own person, I own I always considered the governor, taking up the office of chancellor; as a case labouring with inexplicable difficulties. How unfit are governors in general for this high office of law; and how improper is it that governors should be judges; where perhaps the consequence of the judgment

ment may involve government, and the administration thereof, in the contentions of parties. Indeed the fact is, that the general diffidence of the wisdom of this court thus constituted, the apprehension that reasons of government may mix in with the grounds of the judgment, has had an effect that the coming to this court is avoided as much as possible, so that it is almost in disuse, even where the establishment of it is allowed. But in the charter governments they have no chancery at all. I must again quote the opinion of a great lawyer in the colonies,—

“ there is no court of chancery in the charter governments of New England,” [and I believe I may add also in Pennsylvania] “ nor any court vested with power to determine causes in equity, save only that the justices of the inferior court, and the justices of the superior court respectively, have power to give relief on mortgages, bonds, and other penalties contained in deeds; in all other chancery and equitable matters, both the crown and the subject are without redress. This introduced a practice of petitioning the legislative courts for relief, and prompted those courts to interpose their authority. These petitions becoming numerous, in order to give the greater dispatch to such business, the legislative courts transacted such business by

“ orders

“ orders or resolves, without the solemnity
 “ of passing acts for such purposes; and
 “ have further extended this power by re-
 “ solves and orders, beyond what a court of
 “ chancery ever attempted to decree, even
 “ to the suspending of public laws, which
 “ orders or resolves are not sent home for
 “ the royal assent. The tendency of these
 “ measures is too obvious to need any ob-
 “ servations thereon.” Nor do I see how
 this measure of proceeding can be ventured
 upon in the colonies, or suffered to continue
 by the government here, if it be supposed
 that by 1 Hen. 4. 14. “ it is accorded, and
 “ assented, that no appeal be from hence-
 “ forth made, or in any wise pursued in
 “ parliament in time to come.” The general
 apprehension of these defects occasioned,
 that at the first planting of the colonies, the
 King in council here in England was estab-
 lished as a court of appeals from the pro-
 vincial judicatories.—At the time of set-
 tling these colonies, there was no precedent
 of a judicatory besides those within the realm,
 except in the cases of Guernsey and Jersey,
 the remnants of the dutchy of Normandy,
 and not united within the realm: according
 to the custom of Normandy, appeals lay to
 the Duke in council; and upon this ground,
 appeals lay from the judicatories of these islands
 to the King here, as Duke in council; and
 upon

upon this general precedent (without perhaps attending to the peculiar case of the appeal, lying to the Duke of Normandy, and not to the King) was an appeal from the judicatories of the colonies to the King in council settled.—But, besides the inapplicableness of such appeal to the modes of the English law; besides, that this appeal does not actually take place in general, and is in some of the charter colonies actually excluded, except in personal actions, wherein the matter in difference exceeds 300*l.* sterling;—besides the difficulty of this appeal, and inefficiency of this redress,—the King in council never being, by the constitution, in any other case, between subject and subject, formed as such a court of appeal. This body scarce ever, in the temporary and occasional sittings, looks like a court; but is rather accidentally or particularly, than officially attended.

These general apprehensions and reasonings, upon experience, have led many very knowing and dispassionate men in the colonies, into a conviction of *the necessity of some established and constitutional court of appeal* and redress: and the following measure has not only been suggested, but even taken up as matter of consideration by some of the ablest lawyers in that country;—namely, the

establishment of a supreme court of appeal and equity, not confined to any one government, but circuiting through a certain district of governments; perhaps as follows; one to Nova Scotia and New England; one to New York, New Jerseys, Pennsylvania, and Maryland---one to Virginia, the Carolinas, and Georgia. It has been imagined, that this court should be established by a commission issued to two or more persons for each district, learned in the law, not only of the mother country, but of the several governments in its said district: that this commission should give full powers of a court of chancery, with power also of judging on matters of law, to be brought before this court, by writ of error, from the several superior courts of the district, which this extended to. Such court would become an established court of appeals and redress, would regulate all the courts of law, so that they could not exceed their jurisdiction; would have a general superintendency over all inferior courts; would tend to establish some regularity, and introduce a conformity, not only amongst the courts themselves, of the different colonies, but a conformity also to the courts of the mother country, in the construction and dispensation of law: such court would, more than any other measure, not only tend to preserve the laws, and practice of law in the colonies,

colonies, under a constitutional conformity to the laws of the mother country; but would also maintain that dependency therein, which is of the essence of colony administration.

There are gentlemen on this side the water, who seeing that this measure is not without defect, and not seeing the necessity of a court of chancery at all, as there is nothing contrary to the fundamentals of law, that these law-courts already established should equatize; (if I may so express myself)---think, that instead of establishing any new courts of chancery,---it would be very proper to abolish even those already established, extending the power which the law-courts already take in chancery bonds, &c.---by impowering them to equatize: and after that to take such measures as may best establish a fixt and constitutional court of appeals here in England.

Sensible of the danger of innovations, and abhorrent from tampering in experiments of politics, I mention the following rather as a matter of speculation, than to recommend the trial: yet I cannot but observe, that while the constitutions of the governments of the colonies take so exactly the model of the British constitution, it always struck me as a strange deviation in this one particular, that the governor's council of state, although

a distinct, and I had almost said, an incompatible board,—with the council, one branch of the legislature, is yet always constituted of the same persons, in general nominated and liable to be suspended by the governor.— One may see many advantages, besides the general conformity to the government of the mother country, in having these boards distinct in their persons, as well as their office. If the council of state remaining under the same constitution as at present, was composed of men of the best experience, fortune, and interest in the colony, taken in common from the legislative council, the house of representatives, or the courts, while the members of the legislative council, independent of the governor for their existence, had all and only those powers which are necessary to a branch of the legislature, much weight would be added to administration in the confidence and extent of interest that it would thereby obtain; and to the legislature a more true and political distribution of power, which, instead of the false and artificial lead, now held up by expedients, would throw the real and constitutional balance of power into the hands of government.

There is a matter which at first or last will be found absolutely necessary to be done; and I would wish to recommend it at this time ;

sequence, it will be found, as I have repeatedly said elsewhere, " That it is a dangerous thing to have trusted so much of
 " civil power out of the hands of the crown ;
 " and to have done so little to maintain those
 " to whom it is intrusted." If this should be found to be the state of things, and there should arise a serious intention of putting the administration of the colonies on a practicable footing, their Lordships will advise, that these powers of the crown, delegated through the powers of the several boards and offices in England, shall be so granted as not to interfere with each other ; so granted as not to serve the power or purposes of individuals, either board offices, or officers ; but in such manner as shall unite, strengthen, and maintain the powers of the crown, in the true and constitutional establishment of them ; and in such manner as shall render the administration of them in the colonies uniform, equable, and universal, the common blessing and protection of the whole,

Having thus far examined into the principles of the constitutions of the colonies in that relation, by which they stood connected with the King, as Sovereign : and having reviewed those points of colony administration which derive from thence, marking, in the course of that review, such matters

matters as seem to require the more immediate attention of government: I will proceed to examine those constitutions, in that relation, by which the colonies have become connected to the parliament, to the Empire, not only of the King, as Sovereign, but to the Empire of King, Lords, and Commons, *collectively taken*, as having the whole supream power in them, have become connected to the Realm. In whatever predicament the colonies may stand, as to their allegiance to the King, which must mark out the mode of administration, by which they should be governed; yet the precise settlement of this relation and connection, is what must decide and determine those points, which have come into dispute between the government of Great Britain, and the people of the colonies.

And first, how much soever the colonies, at their first migration, may be supposed to have been, or were in fact, without the Realm, and separated from it: Yet, from the very nature of that union of the community, by which all civil society must subsist, they could not have migrated, and been absolved of their communion and connection to the Realm, without leave or licence; they had such leave, according to the then forms of the constitution, and the

terms were, that the society, community, or government which they should form, should neither act nor become any thing repugnant or contrary to the laws of the Mother Country. Here therefore is an express subordination to a certain degree—The Colonists allowed the subordination, but held their allegiance, as due only to their sovereign Lord the King.---The direct and necessary consequence of this subordination must be, that the legislature of England (afterward Great Britain) must have power to make laws which should be binding upon the Colonies; contrary or repugnant to which the Colonies could not act, either in their legislative, or executive capacity---contrary to which they could neither settle nor trade.

In the first attempts, indeed, which parliament made to exercise this power, in asserting the right which the people of the realm had, to the use of certain possessions in America, against the exclusive claim, which the King assumed in the property of it---They were told, that it was not proper for them to make laws about America, which was not yet annexed to the realm, but was of the King's foreign dominions, in the same manner, as Gascoigne or Normandy were, that they had no jurisdiction
over

over those dominions; and the attempt was dropt. In a second attempt, wherein they took up the petition of some settlers of Virginia, upon the Speaker's reading a letter from the King, the petition was withdrawn,---and we find no more of the parliament, as the constitutional legislature of the kingdom, interposing in these affairs until after the restoration.

In the year 1643, when the two Houses of Lords and Commons, had assumed the sovereign executive power of government, and were, in fact, the acting sovereign, they made an ordinance Nov. 2. * “Where-
 “ by Robert Earl of Warwick is made
 “ Governor in Chief, and Lord High-
 “ Admiral of those Islands and other plan-
 “ tations, inhabited, planted or belonging
 “ to any, his Majesty's the King of Eng-
 “ land's subjects, within the bounds, and
 “ upon the coasts of America.” At which time, a † committee was appointed, for *regulating the Plantations*. The colonies indeed, by this ordinance, changed their Sovereign. But the sovereignty was exercised over them in the same manner, and

* Scobel's Acts, and Journals of the House of Commons, Nov. 2.

† Journals of the House of Commons, Nov. 2.

in the same spirit as the King had attempted to exercise it, by his commission of 1636, for regulating the Plantations.--- That is the parliament, not as legislature, but as sovereign, assumed the same power of making laws, ordinances, &c. for the Plantations: nay, went one step further, in 1646, and charged them with a tax by excise. In 1650 this patent, or commission, was revoked, and the same power was lodged in the council of state, who had power † “ to grant commission or commissions to such person or persons as they shall think fit, with power to enforce all such to obedience, as do or shall stand in opposition to the parliament, or their authority; and to grant pardons, and to settle governors in all, or any of the said islands, plantations and places, and to do all just things, and to use all lawful means to settle and preserve them in peace and safety, until the parliament shall take further, or other order therein, any letters patent, or other authority, formerly granted or given, to the contrary notwithstanding.”

During the administration of this so-

† Scobell's Acts.

verignty,

verignty, an * act passed in 1646, exempting the plantations from all customs, subsidies, taxation, imposition, or other duty, *except the excise: provided*, their trade was carried on in English bottoms, *otherwise*, they were made liable to all these duties. Also, in * 1650, when the Islands of Barbadoes, Bermudas, and Antego, and the country of Virginia, continuing to hold for the King, were considered as in rebellion; all commerce with them was prohibited. At which time also, in the same act, “ all
 “ ships of foreign nations, were forbid and
 “ prohibited to come to, or trade in, or
 “ traffic with any of the English plantations
 “ in America, or any islands, ports, or
 “ places thereof, which are planted by, or
 “ in the possession of the people of this
 “ commonwealth, without license first
 “ had or obtained from the parliament,
 “ or council of state.”

If we consider the parliament acting here, as the sovereign, not the legislature, if we could look upon it as lawful, or *de facto* sovereign for the time being, yet we should

* Note, These acts or ordinances became the ground-work of that act of parliament, after the restoration, which was called the navigation act, of which we shall take notice, in its proper place.

certainly

certainly view every exertion of its power, in the same light, and should examine it by the same principles, as we did those of the King, as sovereign, exercised in the issuing his grants, charters, or commissions. And if we doubt whether the King, as lawful sovereign, could legally himself, exercise or commission other persons to exercise those powers, assumed in his commission of 1636, of making laws, ordinances and constitutions for the plantations; considering the inherent, natural and established rights of the colonists—we may *à fortiori* by much more powerful objections, doubt the right of these powers in the two houses called then the parliament acting as sovereign.—No precedent therefore can be drawn from this period. —

We have seen above how at one time the King as sovereign, without the intervention of the parliament, assumed a right, both administrative and legislative, to govern the colonies.—We have seen how the parliament, without the intervention of the King's commission, assumed as sovereign the same powers. But whatever the natural or established rights and liberties of the colonies were, at their first migration, they could not be said, to be legally suspended,

ed, abridged or altered by these assumptions of power.

Upon the restoration of the monarchy, when many of the rights of the subject, and of the constitution were settled, the constitution of the colonies, received their great alteration: the King participated the sovereignty of the colonies with the parliament, the parliament in its proper capacity, was admitted to a share in the government of them: The parliament then first, taking up the idea, indeed very naturally, from the power they had exercised during the commonwealth, that all these, his Majesty's foreign dominions, and "all these, his Majesty's subjects," were of or belonging to the realm, then first, in the proper capacity of legislature, supreme legislature of the realm, interposed in the regulation and governing of the colonies.---And hence forward, from time to time, sundry acts of parliament were made, not only 1st, for regulating the trade of the colonies, but also 2dly, for ordering and limiting their internal rights, privileges and property, and even 3dly, for taxing them.—In the course of which events, while the Colonists considered this principle, that they were to be ruled and governed only by acts of parliament, together with their own laws, not
contrary

contrary to the laws of England, as the palladium of their liberties, the King from time to time, by his ministers, called in the aid of parliament to enable him to regulate and govern the colonies.—The British merchants at times applied to parliament, on the affairs of the colonies, and even the West India Planters applied to the same power, to carry a measure against the continent of North America. Hence we find enacted,

I. The navigation act, the sugar and other acts for regulating and restraining the trade of the colonies.

II. Also Acts, 1. altering the nature of their estates, by treating real estates as chattels. 2. Restraining them from manufactures. 3. Regulating their money. 4. Altering the nature of evidence in the courts of common law, by making an affidavit of a debt before the Lord mayor in London, &c. certified in writing, an evidence in their courts in America. 5. Dissolving indentures, by discharging such of their servants as should enlist in the King's service.

III. Also Acts, fixing a tax upon American failors, payable to the Greenwich Hospital.

pital. 2. Likewise imposing taxes, by the several duties payable on sundry goods, if intended as materials of trade, to be paid *within the province, or colony, before* they can be put on board, for exportation. 3. Also, the revenue arising from the *duties* payable on the postage of letters. 4. Also, the tax of quartering soldiers, and supplying them in their quarters. Lastly, establishing the claim which Great Britain makes, of taxing the colonies in all cases whatsoever, by enacting the claim into a declared right, by act of parliament.

From the uncontroverted, and universal idea of the subordination of the colonies to the government of the mother country, this power, by which the parliament maketh laws that shall be binding on the colonies, hath been constantly exerted by the government of England, (afterwards Great-Britain) and submitted to by the colonies. The fundamental maxim of the laws of those countries, is, that 1st, the common law of England, together with such statutes (the ecclesiastical laws and canons excepted) as were enacted before the colonies had a legislature of their own. 2dly, The laws made by their own legislature; together with 3dly, such acts of parliament, as by a special clause are extended to America, since

that

that time, are the laws of each province or Colony. The jurisdiction and power of every court established in that country; the duty of every civil officer; the process of every transaction in law and business there, is regulated on this principle. Nay further, every * act of parliament passed since the establishment of the colonies, *which respects the general police of the realm, or the rights and liberties of the subjects of the realm*, although not extended by any special clause to America by parliament, although without the intervention, or express consent of their own respective legislatures or representatives, hath been considered, and I may venture to say, adopted as part of the law and constitution of those countries; but by what principle of our constitution, by what maxim of law, this last practice hath been established, is not so easy to ascertain, any more than it will be easy to fix any rule, when the colonies shall adopt, or when they may refuse those kind of laws of the mother country. This arises, as I have said, from some vague indecisive idea--- That the colonies are of, or some parts of, the realm; but how or what parts, or whether any parts at all, has never yet been thoroughly examined.—

* As the bill of rights, the 7th Wil. 3. &c.

We

We have seen what was, in reality, the dependance and subordination of the colonists to the King, while they were supposed to be subject to him in a seignoral capacity. — We have seen what must have been the same subordination, while they were supposed to be subject to the two houses of Lords and Commons, as sovereign in the same capacity.

Let us take up the next idea, that while they are not of the body of the realm, are no parts or parcel of the same, but bodies corporate and politic, distinct from and without the realm: * “ They are nevertheless, and
 “ of right ought to be subordinate unto, and
 “ dependant upon the imperial crown of
 “ Great Britain; [i. e. the realm,] and that
 “ the King’s Majesty, by and with the ad-
 “ vice and consent of the Lords spiritual
 “ and temporal, and Commons of Great
 “ Britain assembled in parliament, 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 colonies and people of America, sub-
 “ jects of the crown of Great Britain, in all
 “ cases whatsoever.”—In this idea we have a very different state of the relation, namely, the imperial crown of Great Britain, the

* 6 Geo. III. c. 12.

King, Lords and Commons, collectively taken, is stated as sovereign, on the one hand, and the Colonists as subjects on the other.—

There is no doubt, but that in the nature, reason, justice and necessity of the thing, there must be somewhere, *within* the body politic of every government, an absolute power. The political freedom of Great Britain, consists in this power's being lodged no where but in King, Lords and Commons in parliament assembled. This power is absolute throughout the realm,—and yet the rights and liberties of the subject are preserved, as the *Communitas Populi* is the *body*, of which this *Imperium* is the soul, reasoning, willing, and acting, in absolute and intire union with it, so as to form one political person.

There can be no doubt but that this power is absolute throughout the dominions of the realm; yet in the exercise of this power, by the imperial crown of Great Britain, that is, by the King's Majesty, with the Lords and Commons in parliament assembled---towards the colonies, if they are not of this body of the realm, but are still to be considered as distinct bodies, foreign, or extraneous parts without the realm, and the jurisdiction of this kingdom *.—There

* Blackstone, B. 1. c. 5.

is surely some attention due to the nature of this absoluteness in this case.

If the people of the colonies are no part of the people, or of the body, of the realm of Great Britain,---and if they are to be stated in the argument, as subject to the King, not as the head of that compound political person, of which they are in part the body, *sed ut caput alterius populi*, as wearing the imperial crown of Great Britain, as the head to which the realm of Great Britain is the body, and of which body the parliament is the soul, but of which the colonies are no part; then this imperial supreme magistrate, the collective power of King, Lords and Commons, may be stated as sovereign on the one hand, while the people of the colonies stand as subjects on the other.---

Taking the relation of the colonies to the mother country in this view, when the argument is stated in this manner, we surely may say with exactness and truth, that if the colonists, by birthright, by nature or by establishment, ever were entitled to all the rights, privileges, liberties and franchises of an Englishman, the absolute power of this sovereign must have some bounds: must from its own nature, from the very nature of these rights of its subjects, be limited in its extension and exercise.

Upon this state of the case, questions will necessarily arise, which I will not take upon me to decide, whether this sovereign can disfranchise subjects, so circumstanced, of their rights because they are settled beyond the territorial limits of the realm; whether these subjects, thus circumstanced can, because they are supposed not to be of the realm, lose that interest in the legislative power, which they would have had if they were of, or within the realm.—Whether this natural right which they have to personal liberty, and to political freedom is inherent in them “to all intents and purposes, as tho’ they had been born within the realm:” Or whether “* it is to be understood, with very many *and very great restrictions.*” Whether these people, from the nature of these inherent rights and liberties, are intitled to have, and have a right to require a constitution of the same political liberty as that which they left; or whether † “the whole of their constitutions are liable to be new modelled and reformed,”---at the will of this sovereign. Whether the legislative part of their constitution is, they being distinct, altho’ subordinate, dominions, and no part of the mother country, an inherent right of a body of Englishmen, so

* Blackstone, Introduction § 34.

† *Ibid.*

circumstanced, or whether it can be suspended, or taken away at the will of this sovereign. In stating these doubts I do not here add the question, which in time past hath been raised, on the right which this sovereign hath, or hath not, to impose taxes on these subjects, circumstanced as above stated, without the intervention of their own free will and grant.—Because, let these other questions be decided how soever they may, this stands upon quite other ground, and depends upon quite other principles.

So long as the government of the mother country claims a right to act under this idea, of the relation between the mother country and the colonies; so long as the colonies shall be esteemed in this relation, as "*no part of the mother country*;" so long will the colonists think they have a right to raise these questions; and that it is their duty to struggle in the cause, which is to decide them; and so long will there be faction and opposition instead of government and obedience.

But the matter of perplexity is much stronger, in the questions which have been raised, as to the right of imposing taxes on the subject, so stated.

In the same manner as in the act of granting a general pardon, the King alone is the originating and framing agent; while the other two branches of the legislature, are only consenting thereto, that it may be an act of parliament: so in the same manner in the act of granting supplies, by imposing taxes on the people, the house of commons is the sole originating and framing agent, "as to the matter, measure and time;" while the King and lords act only as consentients, when it becomes an act of parliament. In one case the King acts as chief magistrate, representing and exercising the collective executive power of the whole realm: in the other, the commons act, as "granting for the counties, cities and boroughs whom they represent *."

If in the act of taxing, the parliament acted simply in its capacity of supreme legislature, *without any consideration had to the matter of representation* vesting in the commons, I know of no reason that can be assigned, why the resolve to give and grant should not originate from, and be framed or amended by another branch of the legislature as well as by the commons. The only reason that I find assigned, and the only one I venture to rely upon, for explaining that right of the commons to originate,

* Comm. Journ. 1672.

and

and form the resolve of giving and granting; and to settle the mode of charging, and imposing taxes on the people, to make good those grants; and to name commissioners, who shall actually levy and collect such taxes; "as a fundamental constitution," is that which the commons themselves have given, that "the commons grant for the counties, cities and boroughs *whom they represent*,"—and that the word "grant," when spoken of the lords, "must be understood only of the lords assent, to what the commons grant; because the form of law requires, that both join in one bill, to give it the force of law."—Therefore, previously inserting this caution, that I do not presume to form an opinion, *how* they represent the property of, or grant for the lords; and without reasoning on *this mode* of the right: "for it is a very unsafe thing in settled governments, to argue the reason of the fundamental constitutions!" The fact is, that this right is *ab initio*, a fundamental constitution, in that the commons grant for the counties, cities and boroughs whom they represent; and that they do, in fact, represent the property of the realm; although copyholders, and even freeholders within the precincts of boroughs, or within the counties of cities, not being freemen or burghesses in such boroughs, have no vote in

the election of them:—For the property of the copyholder is represented by it's lord; and the property within the borough or city, is actually represented by the corporation or body of freemen in such borough or city, who chuse the member of parliament.

Although it should be willingly acknowledged without dispute, by the Americans, even upon this stating of the case, that the legislative power of parliament extends throughout America in all cases whatsoever; yet, as to the matter, measure and time, in the article of taxes, originating with, and framed by the commons; “grant-
 “ing for the counties, cities and boroughs
 “whom they represent;” it would greatly relieve the perplexity and doubts, which have raised questions, much agitated, if any one could, according to this state of the case, and according to this reasoning, show how the commons do represent the property in America, when stated as being without the realm; and no part of any county, city or borough of the same: and how the freeholders of that property are represented, even as the copyholder and landholder within a borough or city is represented. For, so long as the case shall be so stated, that the Colonies are neither within the realm, nor any part of it; or of any county, city
 or

or borough within the same ; until it can be positively demonstrated, either that in granting supplies, by imposing taxes, the commons *do not act in virtue of their representing* the counties, cities and boroughs for whom they grant ; or that in granting for the counties, cities and boroughs whom they represent, they do also represent the property of America ; the people of America will distinguish their not acknowledging the power of the commons of Great Britain in the case of granting for them, as a very different case, from that under which they acknowledge their subordination to the legislative power of parliament.—Nay, further, every reason which the commons give for that fundamental right of granting supplies, and imposing taxes on the counties, cities and boroughs whom they represent ; and every precedent which the commons alledge for the exercise of this right ; the people of America will use, and alledge for and apply to their own special case, in a way that may be very perplexing, unsafe and dangerous to fundamental constitutions. But all this perplexity and danger arise from stating the Colonists as subjects of the realm, at the same time that the Colonies are stated as being no part of the realm, as no otherwise connected to it than by their subjection.

On

On the other hand, let us review the state of this matter as it seems actually to have stood. If the state of it which we shall represent, cannot and must not be supposed right in law; may we be permitted to state it, at least, as an hypothesis.

The Colonies, from their remote distance, and local circumstances, could not have been incorporated into any county, city or borough; at least so it is said: and yet, at the same time, they are supposed to be, and considered as, within the diocess of London. The Colonists were considered as having gone forth from, and having *quitted the realm*; as having settled on lands *without the realm*.

The Colonies thus remote and separate from the realm, were formed, and incorporated into distinct communities; were erected into provinces; had the jura regalia granted to them; were, in consequence thereof, to all intents and purposes, *counties palatine*, in like and as ample manner as the county palatine of Durham was, some matters of form excepted. They were dominions of the King of England; although, according to the language of those times, "not yet annexed to the crown." They were under the jurisdiction of the King,
upon

upon the principles of fœdal sovereignty: although considered “ * as out of the jurisdiction of the kingdom.” The parliament itself doubting, at that time, whether it had jurisdiction to meddle with those matters, did not think proper to pass bills concerning America.—The Colonies had therefore legislatures peculiar to their own separate communities; subordinate to England, in that they could make no laws contrary to the laws of the mother country; but in all other matters and things, free uncontrouled and compleat legislatures, in conjunction with the King or his deputy as part thereof.

When the King, at the restoration, participated this sovereignty over *these his foreign dominions*, with the lords and commons, the Colonies became *in fact*, the dominions of the realm—became subjects of the kingdom.—They came, in fact, and by an actual constitutional exercise of power, under the authority and jurisdiction of parliament. They became connected and annexed to the state: By coming as parts of the British realm, not as a separate kingdom, (which is the case of Ireland) under subjection to the parliament, they became par-

* Blackstone, B. 1. c. 5.

ticipants

participants of the rights and liberties on which the power of parliament is founded. By the very act of extending the power of parliament over the Colonies, the rights and liberties of the realm must be also extended to them, for, from the nature of the British constitution, from the constitution of parliament itself, they, as parts, can be subject by no other mode, than by that in which parliament can exercise its sovereignty; for, the nature of the power, and the nature of the subjection must be reciprocal. They became therefore *annexed*, although perhaps *not yet united parts* of the realm. But to express all that I mean, in a proposition that can neither be misunderstood nor misinterpreted; they from that moment (whatever was their prior situation) stood related to the crown and to the realm literally and precisely in the same predicament, in which the county Palatine of Durham stood; that is, subject to be bound by acts of parliament in all cases whatsoever; and even "liable to all rates, payments and subsidies granted by parliament;" although the inhabitants of these countries, "have not hitherto had the liberty and privilege of sending knights and burgessees to parliament of their own election." And, in the same manner also, because in that, the inhabitants of the county Palatine of Durham were
liable

liable to all rates, payments and subsidies granted by parliament; and were therefore concerned, with others the inhabitants of this kingdom, to have knights and burgeses in parliament, *of their own election*; to represent the condition of their country, as the inhabitants of other countries had,—it was by act of parliament enacted, that they should have such: in the same manner, I say, whenever these colonies shall be considered in parliament, as objects of taxation, and be rendered liable to rates, payments and subsidies granted by parliament out of their property—they will become concerned equally with others the inhabitants of this kingdom, to have knights and burgeses in parliament, *of their own election*, to represent the condition of their country, as the inhabitants of other countries have,—and of right ought to have; although a right in parliament, to make laws for governing, and taxing the Colonies, may and must, *in the order of time*, precede any right in the Colonies, to a share in the legislature: yet there must arise and proceed *pari passu*, a right in the Colonies to claim, by petition, a share in the representation, by having knights and burgeses in parliament, of their own election; to represent the condition of their country. And as in such circumstances, this right shall arise on one hand,

so

so on the other, it may become a duty in government, to give them power to send such representatives to parliament; nay, could one even suppose the Colonies to be negligent in sending, or averse to send such representatives, it would, in such case, as above settled, become the duty of government to require it of them.

Although from the spirit and essence of our constitution, as well as the actual laws of it, " the whole body of the realm, and " every particular member thereof, either " in person, or by representation, (upon " their own free election) are, by the laws " of the realm, deemed to be present in the " high court of parliament †." Yet as the circumstances of the several members of this body politic must be often changing; as many acquisitions and improvements, by trade, manufactures and Colonies, must make great changes in the natural form of this body; and as it is impossible, both from the gradual nature of these changes, and from the mode of the representative body, that this representative body can, in every instance and moment, follow the changes of the natural *passibus æquis*; it must necessarily at times, from the nature

† 1 Jacobi I.

of things, *not be an actual representative.*— Although, from the nature of the constitution of government, it must, in the interim, continue to be a just and *constitutional representative.* And hence, from the laws of nature, as well as from the nature of our own laws and constitution, arises the justice and right, which parliament always hath had to render several members of the realm liable to rates, payments and subsidies, granted by parliament; although such members have not, as yet, had the liberty and privilege to send knights and burgeses to parliament, of their own election. Yet on the other hand, as the principle, that no free people ought to be taxed, but by their own consent, freely originating from, and given by themselves or their representatives, is invariable, absolute and fixed in truth and right, so the mode of the representation in parliament, hath from time to time, altered, so as to extend to, and to suit the mode, under which the represented were, from time to time, found to exist. Hence it was, that many towns, boroughs, counties, and even dominions, which from any thing that did exist, or was to be found in their antiquas libertates, and liberas consuetudines, were not previously represented by members of parliament of their own election; have, as they acceded to the realm, or encreased within

within the realm, so as to be equally concerned, to have knights, and burgesſes in parliament of their own election, to represent them equally as other inhabitants of the realm have, according to ſuch modes as were at the time admitted to be legal and conſtitutional, been called to a ſhare in the common-council of the realm. Hence it was that the county Palatine of Durham, after many tryals, and a long ſtruggle, was admitted to the privilege of ſending knights and burgesſes to parliament;—but of this caſe enough has already been ſaid.

In the time of King Henry VIII, we find parliament *reaſoning and acting* upon this very principle in the caſe of the county of Cheſter.—The *reaſoning of parliament* ſets forth †, “ that the King’s county Palatine of Cheſter, had hitherto been excluded out of “ his high court of parliament, to have any “ knights within the ſaid court.—By reaſon whereof, the inhabitants had ſuſtained manifold diſheriſons, loſſes and damages, as well in their lands, goods and bodies, as in the good, civil and politic government of their ſaid county.—“ That forasmuch as they have alway hitherto *been bound by the acts and ſtatutes,*

† 34 and 35 of Henry 8.

“ made

" made and ordained by the King, by au-
 " thority of the said court, as far forth as
 " other counties who had knights and bur-
 " gesses in parliament;—and yet had nei-
 " ther knights nor burgeses:—The inhabi-
 " tants for lack thereof have been often times
 " grieved with acts and statutes, made within
 " the said court derogatory to their ancient
 " privileges and liberties, and prejudicial to
 " the common-wealth, quietness, rest and
 " peace of the King's bounden subjects in-
 " habiting within the same. For remedy
 " whereof, the parliament *acts*—and it is
 " enacted, that the county of Chester
 " should have two knights, and the city
 " two burgeses, which knights and bur-
 " gesses are to have the *like voice and autho-*
 " *riety*, to all intents and purposes,—the
 " like liberties, advantages, dignities, pri-
 " vileges, &c. with other knights and bur-
 " gesses."

Hear also, *the reasoning*, and view the *acts*
 of parliament, in the case of the acquisition
 of the dominions of Wales *, subject to the
 imperial crown of, although not yet incor-
 porated or annexed to, the realm.—The
 reasoning sets forth, that Wales ever had
 been united and subject to the imperial

* 27th of Hen. 8. cap. 6.

crown of the realm, and to the King, *its very Head, Lord and Ruler.*—That the principality and *dominions* had rights, laws and customs, different from the laws, &c. of *this realm.*

That the people of *that dominion* had a speech different from the tongue used in *this realm.*

—Thence some *ignorant people* made a distinction between the King's *subjects of the realm*, and *his subjects of the principality.*—His Highness, therefore, out of love to his subjects of the principality, and to bring *his subjects of the realm* and *his subjects of the principality* to *concord and unity*, by advice of Lords and Commons, and by authority of the same hath enacted, that henceforth and for ever, his *said country and dominion of Wales*, shall be incorporated, united and annexed to *this realm of England*; and that all, singular person and persons, born, and to be born in the *said principality of Wales*, shall have, and enjoy all the same freedoms, liberties, rights, privileges and laws within this his realm, and *other* the King's *dominions*, as other the King's subjects, naturally born within the same, have, enjoy and inherit; and that knights and burgessees shall be elected, and sent to represent them in
par-

parliament, with all the like dignity, pre-eminence and privilege as other knights and burgesſes of the parliament have and be allowed.

We alſo find, upon the acquisition of Calais to the King's dominions, that King Edward turned all the French inhabitants out of it; planted *an English Colony there*, with all the rights, freedom, privileges, &c. of natural born ſubjects within the realm, and that *this Colony ſent burgesſes* to parliament.

Seeing then how exactly, and to the minuteſt circumſtance, ſimilar the caſe of the *Colonies erected into provinces*, is to theſe counties Palatine, to thoſe acquired and annexed dominions; can the ſtateſman, whether in adminiſtration or in parliament, reaſon or act towards the Colonies in any other mode, or by any other acts, than what the foregoing give the wiſeſt and happyeſt examples of?

It is a firſt and ſelf-evident truth, without which all reaſoning on political liberty is *certâ ratione inſanire*. That a free people cannot have their property, or any part of it, given and granted away in aids and ſubſidies, but by their own conſent; ſignified by them-

selves or their legal representatives. It is also (as hath been marked before) an undoubted principle and law of our constitution, that the whole body of the realm, and every particular member thereof, either in person, or by representation, (upon their own free elections) are deemed to be personally present in the high court of parliament: And, that the King, Lords and Commons assembled in parliament, are the commune concilium, the common-council of the realm;—the legal and constitutional representative of the whole body of the realm, and of every particular member thereof: having perfect right, and full power and authority to make laws and statutes of sufficient force and validity to bind the Colonies and people of America, subjects of the crown, in all cases whatsoever.—But as various external acquisitions and dominions, may accede to this body, still remaining without the realm, out of its jurisdiction; not yet annexed, united and incorporated with the realm:—As various and divers new interested individuals, may arise and increase within the realm; which, although *constitutionally represented* in parliament, cannot be said to have there *actually* representatives of their own free election.—Let us look and see how government, to be con-

consistent with itself and its own principles, hath acted in such cases.

Parliament hath never ceased to be deemed the constitutional representative of the whole dominions of the realm: Hath never ceased to act as the commune concilium, both in the case of making laws, which did bind these subjects under this predicament; as also, in the case de auxilio assidendo; and render'd them liable to all rates, payments and subsidies granted by parliament: Yet on the other hand, parliament (these subjects being equally concerned to have representatives in parliament, of their own election, equally as other inhabitants of the realm) hath always given them power to send such; as they have arisen to an importance and a share of interest in the state, which could justify the measure. On this principle, and by this proceeding, has the number of representatives in parliament, increased from between two and three hundred, to above five hundred.

In other cases, as in the case of the American Colonies, where these acquisitions in partibus exteris, have been deemed so far separate from the kingdom; so remote from the realm, and the jurisdiction thereof; that they could not have been incorporated

into any county, city or borough within the realm ; that the state and condition of their country could scarcely be said to be within the actual cognizance of parliament: Where the local internal circumstances of their property could scarce fall within the ways and means adopted by parliament for taxes ;— where the peculiar nature of their establishment required the constant and immediate presence of some power to make orders, ordinances and laws for the preservation and well government of those countries: There government hath constantly and uniformly established and admitted the governor, council and representatives of the freeholders of the country assembled, to be a full and perfect legislature, for the making laws and imposing taxes in all cases whatsoever, arising within, and respecting the body of that community ;—full and perfect within itself, to all the purposes of free debate, free will, and freedom of enacting ;—although subordinate to the government of the mother, as being bound by its laws, and not capable to act, or to become any thing contrary or repugnant to it. Although parliament hath, in some cases, as before recited, imposed taxes, arising from customs and duties, paid by the trade and intercourse of the inhabitants of the Colonies: Yet, from the first moment that they have been considered as
capable

capable of paying a certain quota to the extraordinary services of government, and as being in circumstances proper to be required so to do;—government fixed the mode, and hath hitherto invariably continued in the same, of doing this by requisition from the crown, to be laid before the assembly by his Majesty's commissioner the governor.—

If it be the spirit and sense of government, to consider these Colonies still as thus separate unannexed parts; as incapable, from their local circumstances, of having representatives of their own election, in the British parliament;—the same sense and spirit will, I suppose, continue to the Colonies this liberty*; “ which, through a tenderness in the legislature of Great Britain, to the rights and privileges of the subjects in the Colonies, they have hitherto always enjoyed; the liberty of judging, by their representatives, both of the way and manner in which internal taxes should be raised within the respective governments, and of the ability of the inhabitants to pay them:” will think it wise, if not just also, from its having become, I had almost said, a constitutional mode of administration,

* Petition of the general assembly of the Massachusetts-bay.

through the establishment and invaried continuance of the precedent, to raise the Provincial quota of taxes, by making, in each case, a requisition to the assemblies, to grant subsidies, adequate to the service of government, and in proportion to the circumstances of the Colony or province which they represent.

This is the alternative, either to follow the sober temper and prudence of this established mode, or to adopt the wisdom, justice and policy of the reasoning and acts of parliament, in the cases of Chester, Wales and Durham. There is no other practicable or rational measure.

If these external circumstances of our American dominions, and the internal circumstances of our police and parties, lead administration to this measure, of continuing to derive aids and subsidies from the Colonies by the establishment of general assemblies of the states in each Colony, upon the precise model of the parliament in the mother country: It may be very well justified by example, and from precedent, in the government of the Roman Colonies.

Although the Romans governed their provinces by an absolute imperium, which superceded all civil government, properly so
 4 called ;

called; yet the inhabitants of their *Colonies* were, in their civil constitution *, divided into Senate and People, exactly according to the constitution of the city itself: And conform exactly to the model of the sovereign senate. As the order of the *patres conscripti* were the constituents of that body,—so the order of the *decuriones*, the tenth part from amongst the people were, for the purpose of forming a like council, enrolled by the *triumvirs* whom the Roman state had created, to lead out Colonies either of Citizens or Latins.—By this establishment, a senate, for this council is literally so called in the Pompeian law *de Bithynis*, was formed in every Colony—and latterly, in every municipal corporation also.—

As the ordinary supply of the senate in the city, was from the annual election of magi-

* *Constituendum est ad urbis instar, in Coloniais Plebem a Patribus discriminatum; & ad exemplum Senatus amplissimi ordinis, decurionum ordinem (quem et Senatum dictum in Pompeia lege de Bithyniis Plinius scribit) in civitatibus orbis Romani ex decima parte Colonorum, concilii publici gratia, conscribi solitum fuisse a triumviris quo S P Q R creabat ad Colonias aut latinorum aut civium ducendas; eumque in Coloniais veluti in speculo effigies Repub. Rom. cerneretur simulachrum quoddam Senatûs in illis, & demum in municipiis ex decurionum ordine fuit.*

Marcus Vetranius Maurus de jure liberorum. Cap. 8.

strates,

strates, who, in consequence of their having been invested with such magistracy, acquired a seat there; as the extraordinary supply of senators, was by Kings, Consuls, Censors, or Dictators (according to the different times and periods of the Roman government) proposing good and true citizens to the people,—of whom those, who were approved, were enrolled *Conscripti*, *Senatores, jussu populi*: So the ordinary supply of the members of this Colony senate or curia was from the *decuriones*, the magistracy of that community,—while the extraordinary supply was by the *triumvirs* enrolling, in like manner, the senator at the first establishment, or the † governors, upon extraordinary cases, which might afterwards arise,—proposing honest and honourable men, from whom the people chose those who were enrolled.—Both council and result were left to the community.—The council in the senate, the result in the people;—who made, and were governed by their own laws, subordinate to the laws of the empire; who created, and were governed by their own magistrates.—

When this island was itself, in a provincial state, under the empire of Rome, seve-

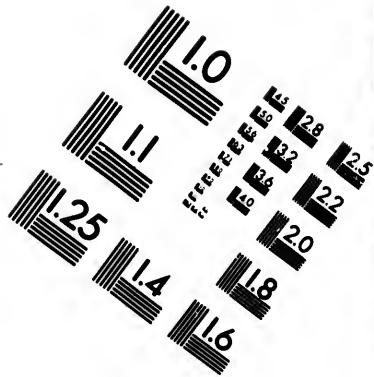
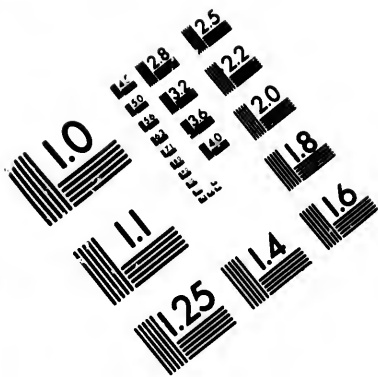
† *Vie Plinii Epist. et Trajani Resp. lib. x. Epis. 80 and 81.*

ral Colonies and municipal districts within the same, were happy under this very constitution of being governed by a representative, magistracy, and legislature,—which the British Colonies now contend for. The manuscript of Richard of Cirencester, lately discovered, tells us which they were.—

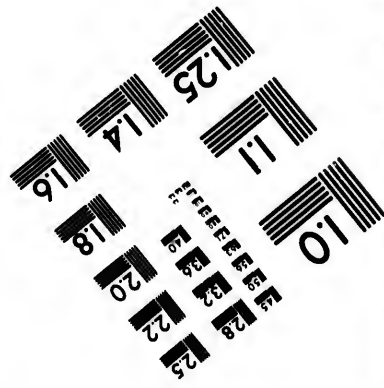
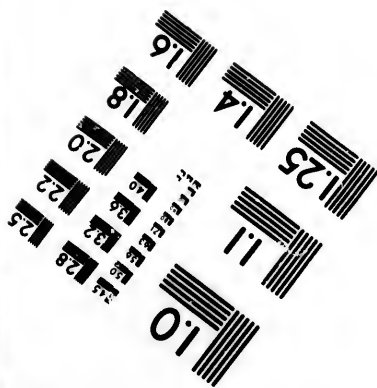
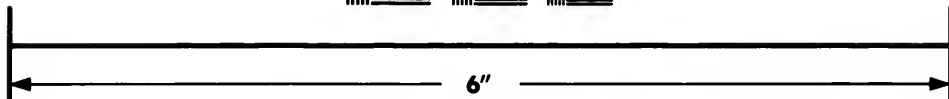
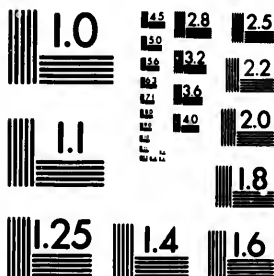
The Colonies were, London, Colchester, Sandwich with Richborough, Bath, Caerleon in Wales, West Chester, Gloucester, Lincoln and Chesterford. The municipal districts, York and St. Albans. To which perhaps we may add, from the same list, as Civitates, Latio jure donatæ, Old Sarum, Cirencester, Carlisle, Burton north of Lancaster, Caster by Peterborough, Alkmanbury and Catteric in Yorkshire, Perth, Dunbritton and Inverness.

If this mode of administration for the Colonies be adopted by government, especially in the article of taxation—It will behove administration, to be thoroughly informed of, and acquainted with the circumstances of the Colonies, as to the quota or share of the taxes which they are capable to bear, and ought to raise, not only in proportion to those raised by the mother country, but amongst themselves: It will become the duty of ministry, to endeavour to persuade the Colonies to establish, *as far as their circumstances*
will





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will admit of it, the same mode of taxation, by stamp duties, excises and land tax, as is used in this country:—That the property and manufactures of the Colonies may not, by an exemption from these, have a preference and advantage over the property and manufactures of the mother country. It will require all the wisdom and interest, all the firmness and address, of a thoroughly established ministry, to carry these points:—As the Colonies, no doubt, will keep off such incumbrances as long as they can; and as the assemblies of the Colonies, will, under this constitution, reasonably argue, that as to the matter, extent, mode and time of taxes, they, the representative of the people for whom they grant, are the only proper and constitutional judges.

Government ought at all times to know the numbers of the inhabitants, distinguishing the number of the rateable polls.

2. The number of acres in each province or Colony, both cultivated and lying in waste.—The number of houses—and farms, &c.

3. The numbers and quantity of every other article of rateable property, according to the method used by the provinces themselves, in rating estates, real and personal.

4. Go-

4. Government ought alway to know what the annual amount of the several province taxes are, and by what rates they are raised, and by what estimate these rates are laid.

From whence, by comparing the estimation with the real value, for the time being, of each article, they may alway collect nearly the real value of the property of such province or Colony. All which, compared with the prices of labour, provisions and European goods imported, with the value of their manufactures, the interest of money, and their exports, will fully and precisely mark their abilities to bear, and the proportion which they should bear, of taxes, amongst one another, and with the mother country.

The following estimates of the provinces, Massachusetts-Bay to the northward, of South-Carolina to the southward, and of New Jersey in the center, are founded in the tax-lists of each province; which tax-lists, being of * ten years standing, must, in increasing countries as the Colonies are, fall short of the numbers and quantity which

* That is ten years back from the time of the publication of the first edition of this book.

would

would be found on any tax-list faithfully made out at this time. The estimates which I have made thereon are in general at such an under-valuation, that I should think no man of candour in the provinces will object to them; although they be, in some articles, higher than the valuation which the legislatures directed so long ago to be made, as the fund of the taxes that they order to be levied on them. This valuation of the estates, real and personal, gives the gross amount of the principal of the rateable property in the province. I think I may venture to affirm, that no man, who would be thought to understand the estimation of things, will object that I over-rate the produce of this property, when I rate it at six *per cent.* only of this moderate valuation; when he considers that money, in none of those provinces, bears less than six *per cent.* interest; and that under loans of money, at five *per cent.* most of the best improvements of the country have been made.

The valuation of the provinces, New-York and Pennsylvania, lying on each side of New-Jersey, are calculated in a different manner, by taking a medium between the supposed real value and the very lowest rate of valuation. Without troubling the reader, or encumbering the printer with the detail
of

of these tax-lists, and the calculations made thereon, I will insert only the result of them, as follows.

The provinces under-mentioned could annually raise, by one shilling in the pound on the produce of the rateable property, estates real and personal in each province :

	£.	s.	d.
Province Massachusetts-Bay,	13172	7	11
New-York, - -	8000	0	0
New-Jersey, - -	5289	17	0
Pensylvania, - -	15761	10	0
South-Carolina, -	6971	1	11
	<hr/>		
Sterling, £.	49395	16	10

Suppose now the rest of the colonies to be no more than able to double this sum :

The sum-total that the colonies will be able to raise, according to their old tax-lists, and their own mode of valuation and of rating the produce of estates, real and personal, will be, at one shilling in the pound on the produce, <i>per annum.</i> - -	}	£.	s.	d.
		98791	13	8

In

In justice to the rest of the provinces, particularized above, I ought to observe that, by the equallest judgment which I can form, I think that the province of South-Carolina is the most under-rated.

I should also point out to the American reader, that, as the calculations and lists above referred to, are taken from the private collections of the writer of these papers, without any official communication of such papers as ministry may be possessed of, I desire him to give no other credit to them, than such as, by referring to his own knowledge of the state of things in the Colonies, he finds to be just and near the truth. I should, on the other hand, inform the English reader, that these were collected on the spot, and communicated by persons leading, and thoroughly conversant in the business of their respective provinces.

Another remark is necessary, That, except what relates to Pennsylvania, these collections were made nine years ago; so that, wherever any difference may arise, from the different proportion in which these provinces have encreased, that ought to be carried to account; at the same time, that a certain addition may be made to the whole from the certain encrease of all of them.

If

If this moderate tax, raised by the above moderate valuation, be compared with the internal annual charge of government in the respective provinces, that charge will be found much below the supplies of this fund. The whole charge of the ordinary expence of government in the province of Massachusetts-Bay, which does, by much, more to the support of government, and other public services than any other province, is, in time of peace, sterling 12937 *l.* 10 *s.* whereas that of New-York is not more than about, sterling, 4000 *l.* annually.

When these points shall be settled, there cannot be a doubt but that the same zealous attention, which all parties see and confess to be applied in the administration of the British department to the public revenue, will be applied to the establishing and reforming that of America.

A proper knowledge of, and real attention to, the Crown's quit-rents in America, by revising the *original defects*, by remedying the almost insurmountable difficulties that the due collection of them is attended with, may render that branch a real and effective revenue, which at the same time will be found to be no inconsiderable one.

M

By

If

By proper regulations for securing the Crown's rights in waifs and wrecks, in fines and forfeitures, and by proper appropriations of the same, that branch of revenue may be made effective: But, whenever it is taken up in earnest, whenever it shall be resolved upon to give a real official regard to the revenue in America, the office of *Auditor General of the Plantations* must cease to be a mere sinecure benefice, and be really and effectively established with such powers as will carry the duty of it into execution, yet under such cautions and restrictions as shall secure the benefit of its service to the use of the crown.

If it should be thought difficult and hazardous, to extend the legislative rights, privileges and preeminences, the true Imperium of government, to wheresoever the dominions of the state extend,—the administration must be content to go on in this ptolomaic system of policy,—as long as the various centers and systems shall preserve their due order and subordination: Or to speak in a more apposite idea;—if we would keep the basis of this realm confined to this island, while we extend the superstructure, by extending our dominions: We shall invert the pyramid (as Sir William Temple expresses it) and must in time subvert the
the

the government itself. If we chuse to follow the example of the Romans, we must expect to follow their fate.

Would statesmen, on the other hand, doubt for a while, the predetermined modes which artificial systems prescribe; would they dare to look for truth in the nature of things; they would soon adopt what is right, as founded upon fact.—They would be naturally led into the true system of government, by following *with the powers of the state*, where the actual and *real powers of the system of things* lead to. They would see, that by the various and mutual interconnections of the different parts of the British dominions, throughout the Atlantic, and in America; by the intercommunion and reciprocation of their alternate wants and supplies; by the combination and subordination of their several interests and powers; by the circulation of their commerce, revolving in an orbit which hath Great Britain for its center: That there does exist, in fact, in nature, a real union and incorporation of all these parts of the British dominions, *an actual system of dominion*; which wants only to be avowed and actuated by the real spirit in which it moves and has its being: By that spirit, which is the genuine spirit of the British constitution: By that spirit from

which the British government hath arisen to what it is: By the spirit of extending the basis of its representative legislature, through all the parts to wheresoever the rights, interest or power of its dominions extend; so as to form (I cannot too often inculcate the idea) A GRAND MARINE DOMINION, CONSISTING OF OUR POSSESSIONS IN THE ATLANTIC, AND IN AMERICA, UNITED INTO A ONE EMPIRE, IN A ONE CENTER, WHERE THE SEAT OF GOVERNMENT IS.

This measure has been, and I dare say will be generally treated as impracticable and visionary *. I wish those declarations of power, with which we mock ourselves, may not be found the more dangerous delusion. Such is the actual state of the really existing system of our dominions; that neither the power of government, over these various parts, can long continue under the present mode of administration; nor the great interest of commerce extended thro'out the whole, long subsist under the present system of the laws of trade: Power,

* On repealing the stamp-act, an act pass'd, declaring the power of parliament to bind these Colonies in all cases whatsoever: This, however, was only planting a barren tree, that cast a *shade* indeed over the Colonies, but yielded *no fruit*. Pennsylvania Farmer's Letters, Letter 10th.

when used towards them, becoming self-destructive, will only hasten the general ruin.

To this measure, not only the Briton but the American also *now* objects, that it is unnecessary, inexpedient and dangerous: But let us consider their several objections.

The Briton says that such measure is unnecessary, because the power of parliament extends to all cases and purposes required.— Be it allowed, that this power does, in right and theory, thus extend: Yet surely the reasoning, the precedents, the Examples, and the practice of administrations do show, that something more is necessary in this case.

The American says it is unnecessary, because they have legislatures of their own, which answer all their purposes.—But each Colony having rights, duties, actions, relations, which extend beyond the bounds and jurisdiction of their respective communities; beyond the power of their respective governments: The colonial legislature does certainly not answer all purposes; is incompetent and inadequate to many purposes: Something therefore more is necessary, *either a common union amongst themselves; or a one common union of subordination, under the one general legislature of the state.*

The Briton says that it would be inexpedient to participate with, and communicate to the Colonists, the rights and privileges of a subject living and holding his property within the realm; to give these rights to people living out of the realm, and remote from it, whose interests are rival and contrary, both in trade and dominion, to those of this realm. But the scheme of giving representatives to the Colonies, annexes them to, and incorporates them with the realm. Their interest is contrary to that of Great Britain, only so long as they are continued in the *unnatural artificial* state of being considered *as external provinces*; and they can become rivals only by continuing to increase in this separate state: But their being united to the realm, is the very remedy proposed.

The American says, that this measure is inexpedient; because, if the Colonies be united to the realm; and have participation in the legislature, and communication of the rights and privileges of a subject within the realm: They must be associated in the burden of the taxes, and so pay a share of the interest and principal of the national debts, which they have no concern in.—This is literally the objection which was made by the Scots, at the proposal of the union of the two kingdoms; and came indeed with
reason

reason and propriety, from an independent sovereign kingdom, which had no concern in the debts of England. But the like objection can never be made with propriety, reason or justice, by Colonies and provinces which are constituent parts of a trading nation, protected by the British marine. Much less can it be said, that they have no concern in these debts, when they are debts contracted, by wars entered into, the first for the preservation of the protestant interest and independency of the sovereignty of the mother country; the two latter, solely in defence, and for the protection of the trade and actual existence of the Colonies. However, if the Colonies could, on any reasonable grounds of equity or policy, show any inequality, or even inexpediency in their paying any part of the taxes, which have a retrospect to times, before they were admitted to a share in the legislature.—There is no doubt but that the same moderation and justice which the kingdom of England showed towards Scotland, in giving that *an equivalent*, would be extended to the Colonies, by the kingdom of Great Britain. And I cannot but think, that it would not be more than such equivalent, that the government should grant them a sum of money sufficient to pay off all their debts, which were contracted, in consequence of

the last war, and were still out-standing; unless Great Britain engaged from henceforth to consider these as the debts of the state in general. I cannot but think that it would not be more than such equivalent, that the crown should give up all its right to quit rents; and that every act, whereby any special revenue was raised upon the Colonies, should be repealed.

The Briton says, that this measure would be *dangerous*; as it might prove a leading step, to the finally removing of the seat of Empire to America.—To which the true answer is, that the removing of the Seat of the Empire to America or not, depends on the progressive encrease of the territories, trade and power of the American Colonies; if continued in the same unnatural separate rival and dangerous state, in which they are at present.—That this is an event not to be avoided.—But this measure of uniting the Colonies to the realm, and of fixing the legislature here in Britain, is the only policy that can obviate and prevent this removal. For, by concentrating the interest and power of the several parts in this island, the Empire must be fixed here also.—But if this removal cannot finally be prevented,—is it better that a new Empire should arise in America, on the ruins of Great Britain; or
that

that the regalia of the British Empire extending to America, should be removed only to some other part of the dominions, continuing however in the same realm ?

The American says, that this measure might be dangerous to their liberties; as this calling the American representatives to a parliament, sitting in Great Britain, would remove their representatives at too great a distance from their constituents, for too long a time; and consequently from that communication and influence, which their constituents should have with them; and therefore transfer the will of the Colonies out of their own power, involving it, at the same time, in a majority, against which their proportion of representatives would hold no ballance. This objection, if it hath any ground for its fears, is a direct answer to the British objection last mentioned:—But it proves too much; as, according to this argument, no remote parts of a state ought to send representatives, as the seat of Empire is also remote; the truth and fact is, that the mutual situation of Great Britain and America, very well allows every communication, which a member of parliament ought to have with his constituents; and any influence beyond that, is unparliamentary and unconstitutional.

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As to all objections which arise from apprehensions of what effect such an additional number of members, acceding all at once to the House of Commons, might have on the politics, conduct and internal management of that body.—They arise from an unwarranted and (one should hope) groundless suspicion of some undue influence operating there.—But should this be a supposition, that could ever be admitted to be true, even amongst the *fœces Romuli*; the contrary apprehensions, from the different quarters, are such as mutually destroy each other.—The Americans fear, that the number of representatives which will be allowed to them, will have no power proportionable to their share of interest in the community. That this union to the British legislature, will only involve them in the conclusions of a majority, which will thence claim a right to tax them, and to restrain their trade, manufactures and settlements as they please. The Briton fears, that these representatives may be an united phalanx, firmly opposing every tax proposed to be laid upon the Colonies; and every regulation meant to keep their actions and interest in due subordination to the whole.—That they will be a party, a faction, a flying squadron, always ready, and in most cases capable, by uniting with opposition to administration, or with

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commercial factions, to distress government and the landed interest of the kingdom. The Americans again on the other hand, fear that some future British ministry, in some future days of corruption, will succeed in bribing their representatives, against which the Colonies will have no remedy, but must submit to the betraying consequences.—These are objections which, on the very supposition, mutually counteract and destroy one another.—They are objections which have had fair trial upon experience, in the case of the Scots members,—and are directly contradicted by truth and fact.

As to all objections raised on the supposed impracticability of the measure; they are too contemptible to deserve an answer.—There is but one which hath any sense in it,—it is said, that the Colonies are too remote, upon a dissolution, to receive the writs and return their representatives within the time limited by law; and that, if the parliament should be assembled immediately on its election, the Colonies could not have their representatives in the house for some time. The portion of time limited by law, is fixed in proportion to the distance of the remotest parts concerned at present, to send members to parliament. A special time might
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be fixed by law, in proportion to the special case of the distance of the Colonies. And as to their having their representatives in a new parliament, upon its being assembled immediately; in the same manner, as upon the demise of the King, the parliament, then sitting, is by law, to continue six months, unless dissolved by the successor: so the old representatives of the Colonies, might by law, be permitted to sit in the new parliament, if assembled within six months; until they were reelected or others sent in their room; the doing of which, might be limited to six months.

Notwithstanding, I know that this proposal will be considered as utopian, visionary, idle, impertinent and what not:—I will proceed to consider the justice and policy of this measure, of this invariable truth, this unavoidable consequence; that in the course and procedure of our government, there must arise a duty in government to give, a right in the Colonies to claim, a share in the legislature of Great Britain.

While we consider the realm, the government of Great Britain, as the *Sovereign*, and the Colonies as the subject, without full participation in the constitution; without participation in the legislature; bound implicitly

citly to obey the orders of government; and implicitly to *enact or register* as an act of their own, those grants which we have by our acts required them to make. as a tax imposed on them: They say that their obedience in this case, without the interposition of their own free will, is reduced to the lowest predicament of subjection, wherein they are not only required to *act*, but to *will*, as they are ordered. Yet, however too strongly they may be supposed to state their case, surely there is a species of injustice in it.

Supplies granted in parliament, are of good will, not of duty, the free and voluntary act of the giver, not obligations and services which the giver cannot, by right, refuse. Whatever therefore is given out of the lands and property of the Colonies, should some way or other, be made their own act.

The true grounds of justice whereby the parliament grants supplies, and raises them by taxes on the lands and property of themselves and their constituents, is, that they give what is their own; that they lay no tax, which does not affect themselves and their constituents; and are therefore not only the proper givers, but also, the best and safest judges,

judges, what burdens they are best able to bear : They do not give and grant from the property of others, to ease themselves. Let the statesman apply this reasoning to the case of the Colonies, and he may be lead up to the true sources of the discontents, murmurings, protests and counteractings against government, which divert its effect, which undermine its establishment, and tend to its utter dissolution.

Whereas on the other hand, we shall find, as hath ever been found, that universal participation of council, creates reciprocation of universal obedience. The seat of government will be well informed of the state and condition of the remote and extreme parts : And the extreme and remote parts, by participation in the legislature, will, from self-consciousness, be informed of, and satisfied in, the reasons and necessity of the measures of government : These parts will consider themselves as acting, in every grant which is made, and in every tax which is imposed : This consideration alone, will give efficiency to government ; and will create that *consensus obedientium*, on which only, the power and system of the Imperium of a state can be founded : This will give extention and stability of Empire, as far as we can extend our dominions.

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I could here proceed to justify this proposition, as founded in fact, by showing, that *this principle of establishing the Imperium of government, on the basis of a representative legislature*, hath been, from the earliest and * first instance of the establishment of a BRITISH SENATE, under the government of Carausius, founded on its native and natural basis, a marine dominion, invariably through all times, *the spirit of this country*: The spirit of that constitution, by which government hath been alway the most surely and happily established in the British dominions. It is a native plant of this soil, which, although at various times, it hath been trodden and cut down, almost to the very roots, hath alway again broken forth with a vigour superior to all false culture and all force. Although it was suppressed for a while, under the last despairing efforts of the Roman corrupted state; yet having taken root, it revived: Although it was, in part, oppressed by the feudal system, in the latter times of the Saxons, as well as under the Normans; yet I could here show, not only how, by its native vigour, it rose again from ruin, but also mark the progress of its restoration, to the time of Henry the third.

* Anno Dom. 291.

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But these are arguments only to those who feel their hearts united to this spirit, who revere the institutions of their ancestors, as the true sources of the original liberty, and political happiness of this country. In these days, when it is the wisdom of statesmen to raise objections to this spirit of policy; when the learned fortify their understanding against conviction of the right of it; when the love of liberty, nay, the very mention of such a feeling is become ridiculous, such arguments must of course become ridiculous also.

It would be a melancholy, and but an useless consideration, to look back to that state of political liberty, on which the British Empire hath extended itself; or to look forward to that state of political glory, liberty and happiness on which it might be extended and established. When we find bounds set to the principle of this spirit; thus far shalt thou extend and no further: When we see a system of policy adopted, under which this country must continue for a while, entangled in a series of hostile disputes with its Colonies, but must at length lose them; must be finally broken in its commercial interest and power, and sink by the same pride, and same errors, into the same insignificance and dependence, as all other
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other commercial states have done, one after another; one has only left to hope, that the ruin is not inevitable, and that heaven may avert it.

I decus: I nostrum: melioribus utere
fatis.

Let us here close this view, and let us return to the examination of matters, which form the internal administration of the Colonies. And first their money.

The British American Colonies have not, within themselves, the means of making money or coin. They cannot acquire it from Great Britain, the balance of trade being against them. The returns of those branches of commerce, in which they are permitted to trade to any other part of Europe, are but bare, sufficient to pay this balance:— By the present act of navigation, they are prohibited from trading with the Colonies of any other nations, so that there remains nothing but a small branch of African trade, and the scrambling profits of an undescribed traffic, to supply them with silver. However, the fact is, and matters have been so managed, that the general currency of the Colonies used to be in Spanish and Portuguese coin. This supplied the internal cir-
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culatation of their home business, and always finally came to England in payments for what the Colonists exported from thence. If the act of navigation should be carried into such rigorous execution as to cut off this supply of a silver currency to the Colonies, the thoughts of administration should be turned to the devising some means of supplying the Colonies with money of some sort or other: and in this view, it may not be improper to take up here the consideration of some general principles, on which the business of money and a currency depends.

SILVER, by the general consent of mankind, has become a DEPOSITE, which is, THE COMMON MEASURE of commerce. This is a general effect of some general cause. The experience of its degree of scarceness compared with its common introduction amidst men, together with the facility of its being known by its visible and palpable properties, hath given this effect: Its degree of scarceness hath given it a value proportioned to the making it a DEPOSITE, and the certain quantity in which this is mixed with the possessions and transactions of man, together with the facility of its being known, makes it a COMMON MEASURE amongst those things. There are perhaps other things which might be better applied to commerce as a common
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measure, and there are perhaps other things which might better answer as a deposit; but there is nothing except silver known and acknowledged by the general experience of mankind, which is a deposit and common measure of commerce. Paper, leather, or parchment, may, by the sanction of government, become a common measure to an extent beyond what silver could reach; yet all the sanction and power of government never will make it an adequate deposit. Diamonds, pearls, or other jewels, may in many cases be considered as a more apt and suitable deposit, and may be applied as such; to an extent to which silver will not reach; yet their scarcity tends to throw them into a monopoly; they cannot be subdivided, nor amassed into one concrete, and the knowledge of them is more calculated for a mystery or trade, than for the forensic uses of man in common, and they will never therefore become a common measure.

This truth established and rightly understood, it will be seen that that state of trade in the Colonies is the best, and that administration of the Colonies the wisest, which tends to introduce this only true and real currency amongst them. And in this view I must wish to see the Spanish silver flowing into our Colonies, with an ample and unin-

errupted stream, as I know that that stream, after it hath watered and supplied the regions which it passeth through, must, like every other stream, pay its tribute to its mother ocean: As this silver, to speak without a metaphor, after it hath passed through the various uses of it in the Colonies, doth always come to, and center finally in Great Britain.

The proportion of this measure, by the general application of it to several different commodities, in different places and circumstances, forms *its own scale*. This scale arises from the effect of natural operations, and not from *artificial imposition*: If therefore silver was never used but by the merchant, as the general measure of his commerce and exchange, coin would be (as it is in such case) of no use; it would be considered as bullion only. Although bullion is thus sufficient for the measure of general commerce, yet for the daily uses of the market something more is wanted in the detail; something is wanted to mark to common judgment its proportion, and to give the scale: Government therefore, here interposes, and by forming it into COIN *gives the scale*, and makes it become to forensic use AN INSTRUMENT in detail, as well as it is in bullion a MEASURE in general.

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This *artificial marking* of this scale on a *natural measure*, is neither more nor less than marking on any other rule or measure, the graduate proportions of it: And this artificial marking of the scale, or graduating the measure is of no use but in detail, and extends not beyond the market;—for exchange restores it again in commerce. No artificial standard therefore can be imposed.

Having this idea of money and coin, I could never comprehend to what general uses, or to what purposes of government, the proclamation which Queen Ann issued, and which was confirmed by statute in the sixth year of her reign, could be supposed to extend, while it endeavoured to rate the foreign coins current in the Colonies by an artificial standard. It would seem to me just as wise, and answering to just as good purpose, if government should now issue a proclamation, directing, that for the future, all black horses in the Colonies should be called white, and all brindled cows called red. The making even a law to alter the names of things, will never alter the nature of those things; and will never have any other effect, than that of introducing confusion, and of giving an opportunity to bad men of profiting by that confusion.

The safest and wisest measure which government can take, is not to discourage or obstruct that channel through which silver flows into the Colonies,—nor to interfere with that value which it acquires there;—but only so to regulate the Colony trade, that that silver shall finally come to, and center in Great Britain, whither it will most certainly come in its true value;—but if through any fatality in things or measures, a medium of trade, a currency of money, should grow defective in the Colonies, the wisdom of government will then interpose, either to remedy the cause which occasions such defect, or to contrive the means of supplying the deficiency. The remedy lies in a certain address in carrying into execution the act of navigation;—but if that remedy is neglected, the next recourse must lie in some means of maintaining a currency specially appropriated to the Colonies, and must be partly such as will keep a certain quantity of silver coin in circulation there,—and partly such as shall establish a *paper currency*, holding a value nearly equal to silver.

On the first view of these resources, it will be matter of serious consideration, whether government should establish a mint and coinage specially appropriated for the use of
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the Colonies ; and on what basis this should be established. If it be necessary that silver, which in bullion is a common measure of general commerce, should, that it may be instrumental also to the common uses of the market, be formed into coin, it should be so formed, that while it was the duty of the public to form this coin, it may not be the interest of the individual to melt it down again into bullion.

If a certain quantity of coin is necessary for the forensic uses of the Colonies, it should be so formed as *in no ordinary course* of business to become the interest of the merchant to export it from thence.

This coin should be graduated by alloy, somewhat below the real scale, so as to bear a value in tale, somewhat better than the silver it contains would fetch after the expence of melting down the coin into bullion,—somewhat better *as an instrument*, in common forensic use, than the merchant *in ordinary cases* could make of it, in applying it *as a measure* by exporting it.

I have here inserted the caution against ordinary cases only, as I am not unaware that the lowering the intrinsic worth of the coin for America, will have in the end no other

effect, than to raise the price of the European goods carried thither, while the coin will be exported to Great Britain the same as if it were pure silver.

If such a necessity of an artificial currency should ever exist in the Colonies, and if such a coinage was established, the Colonists would, for the purposes of their forensic business, purchase *this instrument* either in gold or silver, in the same manner as they do now purchase copper coin for the same purposes.

There are two ideas of a *paper currency*. The one adopts a measure for establishing a bank in the Colonies, which is quite a new and untried measure; the other turns the view to the regulating the present paper money currency, which the Colonies have had experience of in all its deviations, and to the establishing the same on a sure and sufficient basis.

I have seen this plan for a *provincial bank*, and think it justice to the very knowing person who formed it, to say, that it must be because I do not understand it, that many objections arise in my mind to it. Whenever he shall think fit to produce it, it will come forth clear of all objections, with that force

force of conviction with which truth always flows from a mind in full and perfect possession of it.

In the mean while, I will recommend to the consideration of those who take a lead in business, a measure devised and administered by an American assembly.—And I will venture to say, that there never was a wiser or a better measure, never one better calculated to serve the uses of an encreasing country, that there never was a measure more steadily pursued, or more faithfully executed, for forty years together, than the loan-office in Pennsylvania, formed and administered by the assembly of that province.

An encreasing country of settlers and traders must alway have the balance of trade against them, for this very reason, because they are encreasing and improving, because they must be continually wanting further supplies which their present circumstances will neither furnish nor pay for:—And for this very reason also, they must alway labour under a decreasing silver currency, though their circumstances require an encreasing one. In the common cursory view of things, our politicians, both theorists and practitioners, are apt to think, that a country which has the balance of trade against it, and is continually

nually drained of its silver currency, must be in a declining state; but here we may see that the progressive improvements of a commercial country of settlers, must necessarily have the balance of trade against them, and a decreasing silver currency; that their continual want of money and other materials to carry on their trade and business must engage them in debt.—But that those very things applied to their improvements, will in return not only pay those debts, but create also a surplus to be still carried forward to further and further improvements. In a country under such circumstances, money lent upon interest to settlers, creates money. Paper money thus lent upon interest will create gold and silver in principal, *while the interest becomes a revenue that pays the charges of government.* This currency is the true Pactolian stream which converts all into gold that is washed by it. It is on this principle that the wisdom and virtue of the assembly of Pennsylvania established, under the sanction of government, an office for the emission of paper money by loan.

A plan of a general paper currency for America, which was intended to have been inserted in the first edition of this work, hath been withheld from publication now four years, for reasons, which, I was in hopes, might

might have led to more publick benefit, than the making it public in this work could do. I have inserted it in this edition, but first—I proceed to the consideration of the ordinary mode of making paper-money, by the legislatures of the Colonies issuing government-notes, payable at a certain period by a tax. It may be useful to give some description of this, and to point out such regulations as will become necessary in this case, should the other not be adopted.

This paper-money consists of promissory notes, issued by the authority of the legislature of each province, deriving its value from being payable at a certain period, by monies arising from a tax proportioned to that payment at the time fixed. These notes pass as lawful money, and have been hitherto a legal tender in each respective province where they are issued.

As any limitation of the uses of these notes as a currency, must proportionably decrease its value; as any insecurity, insufficiency, or uncertainty in the FUND, which is to pay off these notes, must decrease their value; as any QUANTITY emitted more than the necessities of such province calls for as a medium, must also decrease its value; it is a direct and palpable injustice, that

that that medium or currency which has depreciated by any of these means from its *real value*, should continue a *legal tender at its nominal value*.

The outrageous abuses practised by some of those legislatures who have dealt in the manufacture of this depreciating currency, and the great injury which the merchant and fair dealer have suffered by this fraudulent medium, occasioned the interposition of parliament to become necessary:—Parliament very properly interposed, by applying the only adequate and efficient remedy, namely, by prohibiting these Colony legislatures from being able to make the paper currency a *legal tender*. And government has lately for the same prudent reasons made this prohibition general to the whole of the Colonies. For, *when this paper-money cannot be forced in payment as a legal tender*, this very circumstance will oblige that legislature which creates it, to form it of such internal right constitution, as shall force its own way by its own intrinsic worth on a level nearly equal to silver. The legislature must so frame and regulate it as to give it a *real value*.

These regulations all turn upon *the sufficiency and certainty of the FUND, the extent of*

of the USES, and the proportioning the QUANTITY to the actual and real necessities which require such a medium.

The FUND should at least be equal to the payment of the principal *in a limited time*; and that time should be certainly so fixed, as that the legislature itself could not alter it. Where the paper currency is treasurer's notes given for specie actually lent to government, the fund whereon it is borrowed should be also capable of paying, *ad interim*, a certain interest, as is the case of treasurer's notes in the province Massachusetts-Bay.

This medium ought to be applicable to all the equitable as well as legal USES of silver money within the Colony or province, except that of being a legal tender.

The QUANTITY ought always to be proportioned to the necessity of the medium wanted; which (the *fund and uses* being fairly and absolutely fixed) may always be judged of by the rise or fall of the *value* in its general currency or exchange: for where the quantity issued is more than necessity requires, the value will depreciate: and where the fund is good, and all proper uses of the medium secured, so long as no more paper is issued than necessity does require, it will
always

always hold a value near to, though somewhat less than silver. On this subject I here refer the reader to the following very judicious tract, written and given to me, several years ago, by *Tench Francis, Esq;* late attorney-general of the province of Pennsylvania, conversant in these matters, both as a lawyer and a merchant. I print and publish it by leave of a near relation, and subjoin it as containing the most exact and decisive sentiments on this subject that I have any where met with. I entitle it, **CONSIDERATIONS ON A PAPER-CURRENCY.**



ALL value is given to things for their fitness or power to answer or procure the necessary conveniences or pleasures of human life.

This value may be considered as absolute or relative. Absolute value terminates in our esteem of any thing, without referring to any other; relative is that which it has compared with another. The latter only I shall have occasion to treat of.

Men have power to discover qualities in a thing, which shall give it value. They can by laws, customs, or fashions, greatly increase

crease that value; yet, to know or fix its worth or price, compared with other things *à priori*, has always been found beyond their reach and capacity.

This is owing to an inability to foresee, estimate, and govern exactly all the points and circumstances, on which the value of things turns, which are such as are in, or follow the nature and order of things in general, and then may be foreseen and judged of with some certainty; or which consist of the passions, prejudices, and misapprehensions of mankind, whose number and influences we cannot rate or calculate.

From the *natural* state and order of things, I think it may be affirmed, that the worth or price of any thing will always be, as the quantity and uses amongst mankind; as the uses directly, and as the quantity reciprocally or inversely. Use is the sole cause of value, and value the necessary effect of use. Abating these distinctions of cause and effect, useless and worthless, are synonymous terms. Every man must agree, that if you add to a cause, you must increase the effect; subtract from it, and the contrary effect must follow. Let the quantity of any thing be as 20, and the uses as 20, and let it have a value; let the uses be increased to 30, without
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inlarging the quantity; it is plain, the equal proportion that every man can enjoy will be as 20 divided by 30, $\frac{2}{3}$ ds only. But this being less by $\frac{1}{3}$ than each man requires, the demand for it, and consequently the value must rise. Subtract 10 from the uses when 20, and then under an equal distribution, each shall have double the value he wants, which must lessen the demand, and the value dependent upon it.

Governing the uses is one of the rational powers, that men have over the value of things.

Experience teaches the meanest understanding, that price depends on quantity, and that they are to each other inversely, or the more of one the less the other. Water is as necessary as any thing, and a diamond perhaps as little; yet the superfluous plenty of one has rendered it of no worth in most places, and the scarcity of the other has carried it to an extravagant price.

Limiting the quantity is another rational power men have over the value of things; and I do not know a third.

From hence it appears, that increasing the uses, and lessening the quantity, and lessening

lessening the uses, and increasing the quantity, must always have the same influence upon the rates and prices of things. Therefore, whenever I shew the effect of one, for brevity's sake, let it be understood, that I suppose the same consequence will attend the other respectively.

Although I affirm, that variation in quantity or use shall cause a change in the price of a thing, yet I do not say, that this change shall be in proportion equal to the variation in the quantity or use; for I think the contrary. To instance in quantity, let it be in any thing as 30, and let the use be as 30, and it shall then have a mean value. The use unchanged, let the quantity be at one time as 20, at another 40. Whoever considers the prevalence of men's appetites for a scarce commodity, under the dreads and apprehensions of wanting it, with their different abilities to procure it, on one hand, and their great contempt of useless excess on the other, must agree it is more than probable, that the difference between the means and the extremes shall not be the same in the prices, as in the quantities. Merchants, by experience, have found the truth of what I advance. I think they have observed, that lessening a commodity one third from the mean quantity, *cæteris paribus*, nearly
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doubles the value; adding a third, subtracts one half from it; and that by further increasing or diminishing the quantity, these disproportions between the quantity and prices vastly increase.

It is extremely difficult, if not impossible, to investigate these proportions mathematically; but events springing from use and experience have equal certainty in them, and to all practical purposes are as much to be relied and depended upon.

It is further worth observation, that whatever fluctuates much in quantity, and consequently in worth, will sink beneath its mean value.

Suppose the quantity of any thing produced in every 50 years be exactly the same: let the annual product be as *one* answerable to the necessities of mankind, then the value in each year shall be as one, and the whole equal to 50. But if the quantity of the annual product fluctuates, there will be annual fluctuations in the value; but as the proportions of the decrease of value, from experience above stated, will be greater than the proportions of the increase of value, this fluctuation will cause a deficiency in the mean value, which deficiency will always be in proportion to the greatness and quickness
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of the changes. This, I presume, is occasioned by the desire of mankind in general to rest on certainty, rather than rely on what is fluctuating and inconstant, though they should expect gain equal to the risque, and by the low circumstances of the majority of men, whose fortunes, in all prudence, direct to the first, rather than the latter. The case of insurances is an evident proof of this remark. If the insurers gain, which I think must be admitted, then they receive a premium beyond the value of the risque, and this again the insured pay for *certainty* against *contingent losses*.

These few rules of estimating the value of things, well applied, will, I presume, shew when it is convenient to introduce paper-money into a country, and when it will prove hurtful; what are its advantages and inconveniencies, general and particular, when introduced; of what great importance it is to prevent an excess in quantity, and to extend the uses; and nearly what its value will be in any given state.

If a nation has a quantity of money equal to its commerce, the lands, commodities, and labour of the people shall bear a middle price. This state is the best, and tends most to enrich the people, and make their

happiness lasting. If they should mint paper to pass for money, the increase of quantity in the former will lessen the value of the latter, will raise the price of lands and rents, and make the labour of such a people, and the commodities, be *rated* higher than in other places. Men's fortunes will rise in *nominal, not real value*; from whence idleness, expence and poverty shall follow. Under these circumstances, their *real money*, instead of their commodities, shall be exported from them. Here the paper will be their bane and destruction. But if their commerce, or uses of money, exceed the quantity of it, their lands, labour, and commodities shall sink beneath their worth in other countries. Few purchasers of lands will be found in regard to the superior profit that must attend the use of money in trade: the *wealthy merchant shall be at the head of affairs*: with few competitions; he shall be able to grind down the farmer in the sale of his commodities, and, when those fail to support him, in the purchase of his lands. The artisan's labour shall be depreciated by the merchant who exports it, or the needy farmer that uses it. The wealthy only shall accumulate riches, the commonwealth shall decline, and in time farmers and artisans must desert the place for another, where their labour shall be better rewarded. Here the

the use of paper-money will shake off the fetters and clogs of the poor. Merchants will multiply; they will raise the price of labour, and of the fruits of the earth, and thereby the value of lands. An equal distribution of gain and profit shall succeed, and destroy the partial accumulations of wealth.

I think these marks, taken from the value of lands, labour, and commodities, compared with their worth in other countries, will be found the only infallible rules to judge of an equality, excess, or defect of money in any place wheresoever; and consequently will, at all times, unerringly shew the necessity of increasing coins, or the contrary. Had a neighbouring province well understood and weighed these points, they had not created a paper credit far exceeding all their uses for money, when they were able to supply themselves with gold equal to their trade, nor at the same time have dammed up so many uses for it, which now cover them with clouds and confusion, that no man can see his way through. The best method they can use is to sink it as fast as possible, and not let their fund lie in Britain at an interest less than 4 *per cent.* when it is worth 6 in their own country, and their paper passes 50 *per cent.* less than the nomi-

nal value. But to return: when it is found necessary to add *paper-money* to the coin of any country, to support its value ought to be the main and principal view. This will turn upon the **FUND**, the **USES**, and the **QUANTITY**.

All value arising from the use, I beg leave to call *extrinsic*.

Having shewn that paper-money acquires its extrinsic value from the uses, which uses apparently may be increased or diminished; I think it would be needless and mispending the reader's time, to demonstrate, that this value must be in direct proportion to the uses; for it would really amount to no more than the proof of an axiom universally acknowledged, that the effect shall always be adequate to the cause. Therefore, in all future arguments, I shall take it for granted.

The fund ought to be as satisfactory to mankind as human wisdom can devise and furnish.

The community should become security to answer all deficiencies in the **FUND**; this is not only the highest justice, but the best policy. It is just, because it is a creature of
their

their own, calculated for their private utility and advantage, and is in the management of the country by their representatives and officers. But when they receive an interest from the money, the equity of it is unanswerable: for it seems wholly inconsistent with justice, that one should receive the interest, and another run the risque of the principal. Policy requires it, because the community will certainly receive more profit from its credit under their support, than, with due caution, they can probably lose by accidents in the fund.

Our next consideration, with respect to the value, turns on *what* the fund is to pay, and *when*. These are arbitrary, being within the power of those by whose authority the money is emitted. But for the present purpose: Let us suppose it is to pay silver money, according to the late Queen's proclamation, to the value of 1000 *l.* for so much of the paper, as, according to the *nominal value*, amounts to that sum at the end of 15 years. In this state the 1000 *l.* paper, *with regard to the fund alone*, at the time of its emission, is worth no more proclamation money than what will produce 1000 *l.* of that money at the end of the term, at compound interest, under as good security.

For example, take a 1000 *l.* paper, and let it represent that the possessor shall receive 1000 *l.* proclamation money for it at the end of 15 years, and let the use of money be worth 6 *per cent. per annum*; rebate 6 *per cent. per annum* with compound interest for 15 years, and you have the value of the 1000 *l.* proclamation money in hand, which appears to be but 417 *l.* 5 *s.* 3½; more it cannot be worth, because 417 *l.* 5 *s.* 3½, with 6 *per cent. per annum* compound interest for 15 years added, will amount to 1000 *l.*

On this state it appears, that the longer the term, the less the value, with regard to the fund alone. From whence it follows, that by increasing the term, this value may be reduced to a degree beneath estimation. But whatever the value thus proved be, I call it *intrinsic*.

The FUND established, I proceed to the USES as they next require our attention in regard to the value of the paper-money.

If value, in respect to the uses of things, shall always be in direct proportion to those uses, (which I presume I have heretofore proved in general, and shall hereafter shew is true in relation to paper-money) and we design to raise the power, it follows clearly, that

that to bring this to pass, we ought to give it all the uses of money, or coined gold and silver in other countries. From these uses alone it must derive all the worth it shall bear beyond what I called the *intrinsic* value. For the purpose *take the case stated on the Fund* only, that the possessor of 1000 *l.* paper shall receive 1000 *l.* proclamation money in exchange for it, at the end of 15 years. On this account the paper appeared to be worth but 417 *l.* 15 *s.* 3½. But suppose this 1000 *l.* paper may be immediately exchanged for 800 *l.* proclamation money, which is 382 *l.* 14 *s.* 8½ more than the intrinsic worth, how has it acquired this exceeding price or value? I think plainly from the uses. To prove the truth of this, suppose all the uses as money taken away; unquestionably then the worth of 1000 *l.* paper in proclamation money will be reduced to what I call the intrinsic value; because, depending upon the fund alone, it will be exactly in the state of a fund to be paid at a future day; for in neither case can the creditor use it in the mean time. But if the creditor can by any contrivance use the sum in that time, as he may the paper when it passes for money, that use must be something worth. And when experience shews, that under this use the value advances from 417 *l.* 15 *s.* 3½ to 800 *l.* I apprehend it is evident to a demonstration, that

that the difference is derived from the use. To deny it must be as irrational and absurd, as if, upon adding and extracting an ingredient to and from a composition, we perceived properties in the composition appear and disappear, and yet were to deny that such ingredient was the cause of those properties. This leads me to attempt the solution of a question I have known frequently made. If we in Pennsylvania, upon a sufficient fund answerable in silver, at a future day, mint a quantity of paper equal to the uses of the people for money, and they willingly and universally accept of the paper in all payments, why should it not, at all times, have *value equal to the nominal value*, or to the sum chargeable on the fund at the day to come. This reason, urged by many, to support the paper to this degree, is drawn from the nature of money in general. Money, say they, is but a ticket or counter, which represents to the mind of the possessor a quantity or degree of power. No man, on the receipt of it, ever examines how, or from whence it acquired that power, but in order to discover its reality and duration. For instance, when an English crown is received, does the acceptor regard any properties in the metal, or the figures of it, but those which are to convince him that it is what it appears to be? a crown. It must
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be confessed, he does not. If so, then why may not a piece of paper, under distinguishing characters and impressions, affixed by law and common consent, have the power of an English crown annexed to it? It is to pass in the same manner as a crown does, and in the end will as certainly be a crown as the real one.

Therefore they conclude, that the paper may, and ought at all times, to be esteemed equal to the quantity of silver the fund is to yield for it at the end of the term.

I confess I think this reasoning fair, and the conclusion just and satisfactory, if we do not use silver in our *commerce, foreign or domestick*: otherwise not. The fact is, we do use silver *in our foreign commerce*. I presume it will be easily admitted, as the paper represents the silver in the fund, and from thence obtains its credit, that it shall always be at least of equal use with, or be as readily received as paper. Then if silver in hand has one power, *one use more* than the paper, to wit, that of procuring foreign commodities, it is impossible we can esteem them equally. For that would be to controul the different virtues and influences of things over the mind of man, which necessarily depending upon the things themselves, no laws or
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consent can, by any means, vary or direct. Wherefore, in the case stated, it seems to me certain and undeniable, that the paper must have less worth than the silver.

Having said, that the uses of the paper should be as many as possible, it may be proper for me to speak of some of those uses, the equity and advantage of which have been very much controverted. But here let it be understood, that I proceed upon the case last stated, that the quantity of paper is to be equal to all the uses of money *within* the country. For that state, and a partial supply of paper credit, differing in principles, require different reasoning, and infer quite opposite consequences.

First, then, it seems just and reasonable to compel all persons contracting for silver money, after the law, that raises the paper money to be paid in the country is enacted, to receive the paper in lieu of it, and at the value struck from the fund, although that be inferior to the real value. This perhaps may not be strict equity *between the contracting parties*, but it is just *from the community*, who have power from the consent of every member, by laws, to prohibit the exercise of a particular natural right inconsistent with the welfare of the whole, and to inflict a penalty

nalty upon disobedience to the law. To use silver or gold with the paper, must depreciate the latter. Therefore the law forbids it. This can't be unfair, because every man has notice of what coin he is to be paid in, and *is not obliged to exchange more* for the paper, than he thinks agreeable to the *real worth*. And if any should endeavour such use, the loss of the difference between gold or silver and paper, is a kind of penalty for violating the law, which must be as just as any other penalty imposed on an act, *not evil in itself, but prohibited only*.

Again, upon breach of contracts for payment of money in foreign countries, I think it both convenient and right, that satisfaction should be made in the paper. The convenience of it will appear, if we suppose the debtor a member of the society amongst whom the paper passes; for as such, being restrained by law from trafficking for gold or silver, and thereby disabled from procuring them, he must either pay paper in compensation, or lie in a goal, if the severity of his creditors requires it. In these circumstances, no man in his senses would dare to contract a foreign debt, or transfer foreign money in the usual manner, by exchange; the bad consequences of which are too numerous and obvious to admit of, or need

need particular mention, and evidently prove the convenience of allowing satisfaction to be made in paper.

The equity of this satisfaction will be indisputable, if the debtor pays a sum of paper really of equal value with the foreign money. It is the common case on breach of specifick contract. If it cannot be performed, the most exact justice requires no more than *an equivalent compensation*.

Some persons imagining the real worth of the paper equal to the nominal, have affirmed, that it ought to discharge these debts *at the nominal value*; others confessing a difference between these values, under some political views, have asserted the same. As I shall have occasion to speak on these opinions hereafter, upon a point similar to this I shall only add here, that if this mode of payment should take place, it would as effectually destroy foreign credit and negotiations by exchange, as if gold or silver were to be insisted on here, to discharge a foreign debt. In one case, it would be the highest imprudence to be the debtor, in the other, it must be equally indiscreet to become a creditor.

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Pursuing the uses, I come to that of discharging by paper, the silver debts contracted antecedent to the law that raises the paper.

To shew the necessity of admitting this, I suppose it will be granted me, that there must at all times be a very great number of debtors who depend on their future labour and industry to pay their debts. This dependence is reasonable and just, founded on the natural right of all fairly to purchase silver, the then current money of the country. The debtor has the continuation of this right in view and expectation at the time of his contract; without it he cannot be supposed either prudent or honest to borrow. If then, for the convenience and advantage of the whole society, this right must be taken away by a subsequent law which he could not foresee, it cannot be agreeable either to reason or good conscience, to exact a payment in specie; for that would be requiring a performance when we had expressly taken away the means. Therefore I think it clear in respect to the debtor, that the paper should have this use. But how will this stand with the right of the creditor, who upon the contract as certainly expected to be paid silver, as the debtor did the opportunity of acquiring it to pay.

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I presume, if he receives as much paper as shall be equal in power or value to the silver, it will be just in itself, and perfectly satisfactory to him. But can any man offer so high a degree of violence to his own reason, and the understanding of others, as to affirm, if he is forced to accept less, that still he has justice dispensed him. If I borrow 100 $\%$ in silver before the law, under agreement to repay it at the end of the ensuing year, and before the day of payment comes, the law takes place, commanding the lender to receive 100 $\%$ paper for it, which shall be worth, or have power to procure 82 $\%$ silver money only; with truth can this be called a rational or upright law? Certainly no. Nor shall it be any justification to me in conscience to detain 18 $\%$ of my creditor's money.

The rules of natural justice flowing from our fixed and unchangeable relations to each other, and the invariable nature and order of things, enforced by the express commands of God, are of eternal and indispensable obligation. No laws, no combinations of human power, customs, usages, or practice, can controul or change them. We may, by the consent of a majority, tie up the compulsory hand on the civil magistrate, and thereby dissolve the power of coercive laws,

laws, but can no more absolve from the moral duty, than we can reverse decrees enrolled in heaven. If my debtor should be so extremely weak, as to suppose this not criminal because it is legal, (which I think next to impossible to imagine of a rational creature, and I make bold to affirm, never was the case of a creditor of understanding, sufficient to know the measure of his demand) his opinion perhaps may serve for an excuse, or extenuation of his crime, but never can prove the rectitude of the act, and still the guilt must rest somewhere. The law-makers, the authors of this mistake, are culpable, unless they are under the same delusion, which is yet more difficult to apprehend. Some, who gave up the justice of the law, defend their practice under it, by saying, they are creditors as well as debtors; and as they are obliged to receive, so they should have liberty to pay. Alas! what feeble arguments satisfy, when they are cast into the scale of interest, and gain is the consequence of conviction. If the actions of men towards us are to be the measures of our dealing with others, then he that is cheated by any person, may justly plunder the next he meets. And truly I can't see why it should stop here; for as we may be many times defrauded, and not know it, to be secure, and keep the ballance on the right

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side, we should pillage our neighbours as often as an opportunity offers. This may seem severe reasoning, but really I think it fair from the first position; that because one keeps back part of another's due, therefore he may honestly detain the right of a third innocent person.

Again, paying an equivalent cannot be injurious to the debtor. For suppose he pays 120 *l.* paper. If 100 pounds worth of coin'd silver, reduced to bullion, will then yield him so much, what does he more than perform his contract to pay 100 *l.* of coin'd silver? seeing a compleat recompence is perfectly consistent with the right of each contracting party. Any remaining objections must arise from its being hurtful or injurious to the society in general. This has been asserted, and endeavours have been used to support the truth of it, by this kind of reasoning.

First, if the law should oblige the debtor (for the purpose) to pay 120 *l.* paper in lieu of 100 *l.* silver, the legislature would thereby confess the inferior worth of the paper, which will be attended with this ill consequence, that the general current value of the paper shall be less than if the law had declared it equal to silver.

Secondly,

Secondly, That lessening the current value will be a loss to the society in general. To the first, That obliging to pay a larger sum of paper for a less of silver, acknowledges an inequality of value under the like denominations, is self-evident. But from thence to infer, that the paper shall pass in general, at less value than if they had been declared equal, with submission, I think mistaken, and inconclusive reasoning.

To be clearly understood, permit me to examine this upon the fact. Suppose the law, in the strongest terms, enacts that the paper shall be in value equal to silver money, according to their several denominations. Carry the paper from thence to use, by offering it in exchange or payment for some commodity, and then I ask a short question, Who it is that really sets a value on the paper, the legislature, or the person that has the commodity to sell? If it be answered, the first, then I say, this cannot be, unless they also limit the price of the commodity. For if the seller can raise and proportion the price of it to what he thinks the real worth of the paper, the law-maker's declaration notwithstanding, it is he that strikes the value, and not they. For instance, put the case; a farmer, just upon emitting the paper, has a bushel of wheat to sell, which he rates at,

and will not part with under, three silver shillings. The future current worth of the paper being unknown to him, let him by guess imagine these three shillings equal to four shillings paper. A purchaser then presses him, under the influence of the law, to accept of three paper shillings for this wheat; but he, without regard to the law, according to his own opinion, demands and receives four shillings for it. Will any man say, the legislature determined the value of the paper here? Apparently the seller did. For the legislature commanded, that the three paper shillings should be valued at three of silver, but the farmer has made his estimate at three fourths of that value only. Unquestionably the vender must always have this power, unless, as I said before, the law-makers can limit the price of all commodities, which is not practicable, consistent with the order of things, or the preservation of men's properties. But it may be alledged, although the receiver of the money is not bound to observe the legislative command, yet still it may have some weight. He may consider it to be the impartial opinion of the wisest part of the society, what the future current value of the paper shall be, and thereby add, in some degree, to its worth.

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In answer I must observe, first, this gives up the point of power, and changes it to a matter of meer advice. Then, supposing that of any import, surely delivering it in a mandatory way, will be very little able to produce the desired effect. Imperative advice (pardon the expression) favours too much of selling the rabbit, to prevail or persuade. In short, the words command and advise, convey two ideas so widely different, and so opposite and repugnant to each other, that it is absolutely impossible we should take the first for the last. But granting it to be interpreted as a piece of cordial advice. Shall it be received implicitly, and pass without any examination? I presume not. When it comes to be examined, if the people should be informed, that, upon a nice examination, the legislature had found a fourth, fifth, or sixth difference between silver and paper, as such calculations are generally out of the reach and comprehension of most people, it seems not improbable that the paper might pass at first, agreeable to the given difference. *I say at first*; for I contend, if the calculation should be erroneous, (which the use of the money in time will discover) this effect shall not be lasting. But if, on the contrary, they learn that the paper, without any calculation, by guess, was pronounced equal to silver, which every man's judgment, who

knows the superior power of the last, must disapprove of, what influence can the legislative advice then have? Undoubtedly it will be universally rejected, and each person turned at large to make his estimate as well as he can, without the least regard to the legislative opinion.

Once more, take it, that the quantity of silver in 100 shillings proclamation money is now worth 120 paper shillings in Pennsylvania, and suppose this requisite had hitherto been omitted in all laws relating to the paper: let the supreme authority to-day enact, that from henceforth all persons shall give as much for 100 shillings paper as they do now for that quantity of silver, would this make the least alteration in the current value of the paper? Might a man, with reason, expect to buy more bread or wine to-morrow with 100 paper shillings, than he can to-day? if the legislative power can bring this to pass, perhaps it may prove more than some people desire; for I conjecture it will shew, that we never had any occasion for paper. Whatever quantity of silver we had amongst us, when the paper was struck, might have been extended in value proportionable to our wants, and all the business of paper-money done at once. The absurdity of this lies open to the meanest capacity; yet

yet I aver, that to raise the value of paper by authoritative words or commands, is equally irrational and unfeasible.

I know no just means whereby mankind can give value to things, but increasing or lessening the *uses* or *quantity*. The paper derives its *intrinsic worth* from THE FUND which is stable and fixed. The *uses* give it further value, but that shall always be in inverse proportion to the quantity. The quantity is absolutely under the direction of the legislature, but the *uses* not. As they are raised, so they must be limited, by our necessities, and the disposition and order of things. The utmost the legislature can do, or is needful to be done, is to make the paper answer *all those uses*. When they have ascertained the FUND, the *uses* and *quantity*, their power expires. And the current value, if the people receive it, flows from them by so unavoidable and a necessary consequence, that whatever the legislature or others will or do, (if it alters not the fund, *uses*, or quantity) can work no change in it in general. For a time, as long as people are ignorant, I confess it may; but when experience, that excellent mistress, has disclosed what worth they give, all imaginary value shall cease and vanish, and on the three re-

quisites, as on a solid and firm foundation, it shall ultimately rest and settle.

I conclude what I have to say on this point with a short observation. That all the attempts of assemblies in America in this way even by penalties on disobedience, have proved fruitless and abortive. And it has been extremely remarkable, that although transgressing the law, by making a difference between silver and paper, has been every day's practice, not in secret, but openly, I have never heard, that any person has been so much as questioned publicly, or has lost any degree of reputation privately for doing it. So far do the dictates of just and right reason surpass and transcend the force and power of any human device or institution, that opposes or contradicts them.

I come now to consider the second position; that lessening the current value will be disadvantageous to the society in general.

This cannot be maintained without proving, that it will occasion a loss, or obstruct some gain.

A society can gain but two ways, from the earth, and from their neighbours. When I say

say from the earth, I do not mean from her simple productions only; for I include therein men's labour and manufactures upon them afterwards: and they can lose only by the contrary, neglecting the fruit and product of the earth, and suffering their neighbours to carry away their wealth.

I presume it will be very hard to shew, how a different valuation of the money can influence the industry of the land-holder or the artisan.

Upon the quantities of the fruits of the earth, and manufactures produced, entirely depend the wealth of the country. A farmer and tradesman, for a certain portion of their commodities one year, receive 8 shillings, and with them can purchase an ounce of silver. The money being raised in value next year, they can get but 7 shillings for the same quantities; but still that sum will buy an ounce of silver. Can this difference, in the value of the paper, cause the one to till the more or less ground, or the other to make a greater or less quantity of his manufacture? What is it to them how the money is rated, if they receive and part with it at the same value? Gold, comparing quantity to quantity, is more valuable than silver. If silver was to vanish out of the world,

world, and gold should be made the only medium of commerce, can any one imagine that mankind would grow more industrious to procure it, because more valuable than silver, when the quantity they shall get must be proportionably less? Do we in fact find these different effects from gold or silver at present? I think we may as reasonably expect, that varying the measure of the bushel or yard, will induce people to make more or less corn or cloth, as that changing the value of the money, which is another kind of measure for commodities, should excite or abate men's diligence to raise and make them.

All gain from our neighbours must be by getting their money or their goods. These are to be acquired only by conquest or commerce. The first I pass over as impertinent to this purpose. Then let us see whether advancing the value of the money can reflect any gain to us from them in the latter. Gain in trade may be considered as derived from the manner or the measure of it. The manner of trade in general is of short circuit, and consists of importing foreign money or commodities, and the exportation of our own. In these negotiations we shall find the worth of the paper affords us no advantage over, or an opportunity to get from our neighbours.

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Suppose a foreigner imports 800*l.* proclamation money, and finding That not the medium of our commerce, proposes to exchange it for paper. Let the value of the paper be such, that he can get but 800*l.* of it for his silver. With the paper he purchases corn, which he transports. What have we got from this foreigner? 800*l.* in silver. Should we have got less had he received 1000*l.* for his silver, and with it bought the same quantity of wheat? Certainly no. Neither case makes us richer or poorer than the other; and the same consequence will be found to attend all foreign imports whatever.

When we export our commodities, the value of the paper is quite out of the question; for in their sales, or the returns, it is in no sort concerned. If we send the paper abroad, and sell it, unless it be kept in expectation of what the fund will yield for it at the end of the term (which I intend to speak to hereafter) we shall find it but an exchange of merchandizes between us and them. For the seller brings the goods he receives here, and the buyer, by means of the money, carries back our goods; the paper is but a measure, as it was in the case of imports and exports in return; and if it be rated alike abroad and at home, no loss

loss or gain can ensue to either country, or to the traders, from a high or low valuation of it.

He that is not satisfied by these reasons, may perhaps be convinced by the experience of others. The coins of England being finer than those of Holland, quantity to quantity, are of more value; but was it ever thought the English had therefore more power or traffick, to obtain the money and merchandize of other nations, than the Dutch?

Were it possible that the profit of trade could be affected by lowering the coin, that cunning and skilful generation would hardly have debased theirs by design, much less have continued for so long a time as they have done. * The paper-currency of New England, by a great excess in the quantity, is sunk to a shameful degree. From hence we hear of much fraud and dishonesty amongst them; but it was never yet objected that it injured them in trade. In truth, if it had, as they principally subsist by com-

** These facts must be referred to the time in which this treatise was written, twenty years ago. — These evils have been remedied by the acts of parliament restraining the assemblies from making their money a legal tender.

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merce, they must have been ruined and undone long ago.

* The currencies of North and South Carolina are in the same condition ; but still their trades go on as usual, without the least alteration. In respect to the measure of our commerce, it is evident that cannot be impaired by reducing the value of our money, unless we are thereby deprived of a sufficient quantity to carry it on : for instance, if 60,000*l.* proclamation money be necessary to carry on all our trade, and we strike 60,000*l.* paper, in hopes it shall have the value, upon experience it proves worth but 50,000*l.* proclamation. Then, for want of the remaining 10,000*l.* some of the wheels of trade must stand still or move slower, which apparently will obstruct a part of our gain. But the impediment vanishes, by raising an additional sum of paper equal to the 10,000*l.* deficiency. The power of doing this we have hitherto enjoyed and exercised without any restraint ; and probably shall retain as long as we use it with discretion and prudence.

Seeing then, that by raising the value of our money, we are not likely to get any thing from our neighbours, let us now try whether by lowering it they can get any thing from
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us. I presume I have proved, that in common commerce, receiving and returning the money for merchandizes, they cannot; consequently no method remains, but keeping the money to receive silver from the fund at the end of the term. By these practices they can gain from us only upon one supposition; that they purchase the money at less than what I call the intrinsic worth: for if at more they lose by it, and we gain from them. I have shewn, rating interest at 6 *per cent. per annum*, that 1000 *l.* payable at the end of 15 years, is worth 500 *l.* to take a round sum, in hand. If our neighbour can buy it for 400 *l.* he gets 100 *l.* from us. But on the contrary, if he gives 800 *l.* for it, he loses 300 *l.* For he lends us 800 for 15 years, at 2 *l.* 8 *s.* *per cent. per annum*, when it is really worth 6 *l.* and the difference, which on computation will be found in the whole to amount to 300 *l.* or nearly, we gain from him. But neither of these cases can possibly happen while men have the least capacity to discern and preserve their own interest. Indeed I have never heard one found reason, either moral or political, for this manifest deviation from justice and equity. So far is it from good policy, that if I am not mistaken, it must work an effect contrary to the design; and
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instead of supporting the credit of the paper, undermine and diminish it.

The public authority is guarantee for the payment of all just debts. Every body must agree, that the value of paper money is nothing but so much public credit. Now, is it possible for the public authority to break its own engagements, in respect of the payment of the debts, without in some degree blasting that credit which is to be the support of the money? Public and private faith are, in this respect, exactly alike; and it is as easy to see how violating one public obligation shall impair the value of the paper-money, as how a known breach of private contract in a goldsmith should lessen the worth of his bills or notes.

A second inconvenience attending it, is loss of foreign credit, which must be a great misfortune to a trading country. This is occasioned in the same manner, by which I just now shewed the value of the money might be affected; and let it not be thought amiss that I mention a third inconvenience, namely, prostituting and debasing the dignity and excellence of the divine and moral laws in the eyes of the people, and encouraging them, by ill practices and examples, to depart from true honesty and virtue. For
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if a man can once believe, he may justly, by human authority, transgress those laws, he loses much of the due and necessary respect that ought to be paid them, and shall afterwards be able to resist their checks and admonitions with greater ease and facility: and he that owes to 20 people, and pays them with five sixths of their due, and sees his neighbour do the like, under colour of law to-day, will, I am afraid, with less regret and compunction, defraud his creditors without a law to-morrow.

But now, granting entire recompence ought to be made, it may be asked how the quantum of paper to be paid for antecedent silver debts shall be ascertained.

The legislature cannot settle it with exact justice, because no skill can discover what the future current value shall be; and if the people are left to do it themselves, it will introduce many law-suits and oppressions, and still they may be as far from right as if the legislature had done it. The greater inconveniences in the latter, rationally determine the power to the former. When they come to exercise it, if it is the first experiment of the kind, I imagine they can do little more than guess at the value. But as it is within demonstration, that the paper cannot be
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equal to silver, surely it ought not to be rated so. Impartiality requires the guess to be as near as may be, and then, although it may be mistaken upon the laws of change, it may be perfectly equal, because either party may lose or gain. It is a common case in life, and must be always so in untried things, and no man can justly complain of the event, because all errors are owing to our weakness, not our faults.

If any of our neighbours have issued paper-money, the value of theirs will afford us strong lights to discover the worth of our own, and allowing for different circumstances, we ought to rate ours as they have found theirs upon trial. But when experience has taught us the true worth of the money, all difficulty ends, and whatever debts or pre-contracts remain (as many from their growing nature must) should be satisfied according to that value.

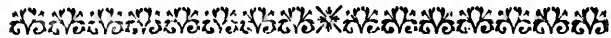
I have now run through all the uses that occur to me worthy of observation; and therefore shall proceed to the quantity.

When it is designed, that paper shall be the only money of a country, the quantity, according to the nominal value, ought to be, as near as possible, adequate to the uses,

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or in other words, to all commerce, foreign and domestick. It is easier to see the truth of this rule in speculation, than to reduce it to practice; because the number and extent of the uses of money, in a populous and industrious country, are far beyond our knowledge and comprehension. From the circumstances of other places, the quantity of money current before issuing the paper, and the value of their exports, rational conjectures may be formed, but experience alone can teach us what sum will suffice. To strike the necessary quantity at once, would be most advantageous to the society, and equal with respect to individuals; but as that cannot be known, let it be approached as near as may be. And since we may expect to err, I presume it will be better to err on the side of deficiency than excess, seeing additions are easy, but subtractions oftentimes very difficult after the emission.



FROM what I have said above, which the foregoing treatise doth fully confirm and elucidate, the following propositions, which I apprehended to be truths, do arise. That in Colonies, the essence of whose nature requires a progressive increaie of settlements and trade, and yet who, from the balance

lance of trade with the mother country being against them, must suffer a constantly decreasing quantity of silver money, *a certain quantity of paper-money* is necessary. It is necessary to keep up the increasing operations of this trade, and these settlements; it is also necessary, in such circumstances, to the equal distribution and general application of these benefits to the whole Colony, which benefits would otherwise become a monopoly to the *monied merchant only*: it is prudent, and of good policy in the mother country to permit it, as it is the surest means of drawing the balance of the Colony trade and culture to its own profit.

These reasonings further shew, how, by securing the *fund*, extending the *uses*, and regulating the *quantity*, this measure of a paper-currency may be carried to the utmost extent of which it is capable. Nor do they stop here; for as they give the rule whereby to judge of the excess or defect of money in any place whatsoever, so do they, at all times, shew the necessity of encreasing it, or the contrary.

Although the reasonings, which from my own sentiments of the matter, I have applied to this subject, and those, with which I am able to oblige the world, by publishing the

above very judicious and able tract, do perfectly coincide in these points: yet upon the point of the USES, in considering the remedies to be provided against the quantity of any fallacious depreciation of this paper-money, our reasonings seem to divide on quite different sides of the question. The author of the above tract asserts, that in Colonies, where paper-money is created, the people of that Colony *should be compelled by law to receive it in payments:* and he states two or three different cases in proof of his assertion: My opinion suggests, that this paper-money ought *by no means to be a legal tender:* and yet, different as these propositions may appear, they will be found to coincide in the application of the remedy; in the only proper and radical remedy, *the not permitting the paper-money to be a legal tender.* This gentleman experienced in the politicks of the Colonies, and knowing the danger, if not the impracticability, of any legislature in these Colonies adopting this maxim, takes up the reasonableness and necessity of this paper-money being forced into payments by law;—but then, in all the cases wherein he states the remedy in equity, against the injustice, which may arise from the artificial value of this paper-money thus declared, he firmly and justly declares, that the payment thus by law forced upon the creditor *in paper,*
ought

ought not to be according to the nominal legal value of that paper, but according to the real value, an equivalent to the debt.—

This judgment totally destroys the maxim of its being a legal tender. In the application therefore of the remedy, our opinions do not differ, but the truth of them becomes the more elucidated by this coincidence of two thus seemingly different propositions.—

I will therefore proceed in saying, that by the reasonings above it appears, that the only and proper remedy, against the iniquities of a fallacious, depreciating paper-currency, is *that radical one, of not permitting this paper-money to be a legal tender.*—On the other hand, so confirmed am I in my opinion of the necessity and propriety of a certain quantity of paper-money in the Colonies, that were I not convinced, that the restraining of it from being a legal tender, will not destroy the existence of it, but, on the contrary, amend its currency; I would even sacrifice my conviction to this point of utility: but whatever apparent value this paper-money may seem at first view to lose by restraint of this one use, this very restraint, (if the Colonies will have paper-money) must become an occasion of so meliorating and securing the *fund*, of so exactly regulating the *quantity*, and of adding some *other valuable use*, namely an interest, or some premium equivalent

lent to it; that the paper-money shall become thus intrinsically, and of its own nature, a better and surer currency than all the power and authority of Colony-government could make it. For not being forced into currency, by any external value derived from authority, it must, like bullion in coin, derive its currency from its intrinsic value and applicableness to the purposes of money;—so that thus becoming, from necessity, a more determinate measure, a more practical instrument of trade, and a more beneficial deposit, as bearing an interest even while in currency, it becomes to have *all the uses* of bullion in coin, and one more,—so as even to bear a premium,—which in fact is the case of the treasurer's notes in the province of the Massachusetts-Bay in New England, though they are not a legal tender.

As the inconvenience of permitting the assemblies of the Colonies to issue paper-money, under the sanction of its being a legal tender, had been complained of and confessed; an act of parliament was made, to restrain that part of the Colonies, against which the complaint chiefly lay. Since that time, a general restraint hath been lain upon all the Colonies, by a like act of parliament, extending to the whole. The majority of
the

the men of business and property in the Colonies, have ever heretofore wished to have the assemblies restrained by act of parliament, from the power of giving the sanction of a legal tender to their paper-money: They esteemed that restraint to be the only effectual means of preventing the many bad practices, which have arisen from this illusory false coin; to the detriment of real business and real property. On the other hand, seeing the absolute necessity of some paper currency, schemes of the like nature, as that of the following proposal, have been thought of. I have had opportunities, not with governors and crown-officers, but with the leading men of business in the Colonies, of examining and considering several of these schemes. The following proposal may be considered as the result of these discussions, containing and comprehending, according to my best judgment, all which was thought consistent with the liberties of the people, safe in respect of their interest, and effectual to the point required. So far am I from assuming any merit in the invention or framing of it, that I desire it may be considered, as founded on what hath been actually practised in Pennsylvania, by the good sense and good policy of the assembly of that province, with success and with benefit to the public. That the particular proposal, as it is now

formed, and applied to the present exigences of America and Great Britain, was drawn up some years ago, in conjunction with a friend of mine, and of the Colonies. It was, by us, jointly proposed to government, under successive administrations, in the years 1764, 1765, 1766, during which time, the publication was suspended. It is now given to the publick, not by way of appeal against administrations, but as a scheme which, although not attended to by a British ministry at present, may yet suggest something that may be of use to better politicians than we pretend to be.

We are fully apprised how much we have risked, both in the proposing, and in the now publishing this scheme.—If the British statesmen should still think that they can turn it to no good; and if the American patriots should think that a dangerous use might have been made of it by government: We shall be thought by the one to have been impertinent, and by the others to be mischievous meddlers. If our statesmen should have the happiness to find out the right use of it, and, like the humbler, but not less wise politicians in the Colonies, to apply it to the mutual benefit of government, and of the people; then we shall not be allowed to have the least share, much less any

any merit in the forming of it, or in the application of it: twenty different people will prove, that it has been their scheme. About this we are not anxious, any more than disappointed that our British statesmen could not find their way to the use of it. We now propose it to the sober sense and experience of the Colonies. Who will know how to profit by it, how to convert this species of credit, into a real efficient currency; how to benefit *and to take the lead of that power and political interest*, which their taking the management of this will necessarily throw into their hands. *We need not point out to them* how that will arise.—They have the means, whenever our bad policy, or their own prudence shall lead them to make use of such, of giving this currency a general value throughout America, by establishing an intercommunion and reciprocation of credit, under acts passed by each particular assembly, all having reference to this one point;—regulating the quantity which each province or Colony shall issue—by the state of its depreciation; and regulating the proceedings in their several courts of law, as to the specialty of all bargains and contracts made in this special note-money. They also will know, which hath hitherto puzzled our statesmen, how to give it a *real intrinsick value*, without calling

calling in the aid of the government of Great Britain, to give it *an artificial one*, by making it a legal tender; and without paying to that government *forty thousand pounds per annum*, which sum, at least, the interest of this money would have produced as a revenue.

As the paper-money act made and passed in Pennsylvania, in 1739, was the compleatest of the kind, containing all the improvements which experience had from time to time suggested, in the execution of preceding acts: An account of that act will best explain and recommend the measure contained in the following proposal.

The sum of the notes, by that act directed to be printed was 80,000 *l.* proclamation money: This money was to be emitted to the several borrowers, from a loan-office established for that purpose.

Five persons were nominated Trustees of the *loan-office*, under whose care and direction, the bills or notes were to be printed and emitted.

To suit the bills for a common currency, they were of small and various denominations, from 20 shillings downwards to one shilling.

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Various precautions were taken, to prevent counterfeits, by peculiarities in the paper, character, manner of printing, signing, numbering, &c.

The trustees took an oath, and gave security for the due and faithful execution of their office.

They were to lend out the bills on real security of at least double the value, for a term of sixteen years, to be repaid in yearly quotas or installments, with interest: Thus one 16th part of the principal was yearly paid back into the office, which made the payment easy to the borrower: *The interest was applied to public services*, the principal, during the first ten years, let out again to fresh borrowers.

The new borrowers, from year to year, were to have the money only for the remaining part of the term of 16 years, repaying, by fewer, and of course, proportionably larger installments, and during the last six years of the 16, the sums paid in, were not to be remitted, but the notes burnt and destroyed; so that at the end of the 16 years, the whole might be called in and burnt, and the accounts completely settled.

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The trustees were taken from all the different counties of the province, their residence in different parts, giving them better opportunities of being acquainted with the value and circumstances of estates offered in mortgage.

They were to continue but four years in office; were to account annually to committees of assembly; and, at the expiration of that term, they were to deliver up all monies and securities in their hands, to their successors, before their bonds and securities could be discharged.

Lest a few wealthy persons should engross the money, which was intended for more general benefit, no one person, whatever security he might offer, could borrow more than 100 l.

Thus, numbers of poor new settlers were accommodated and assisted with money to carry on their settlements, to be repaid in easy portions yearly, as the yearly produce of their lands should enable them.

Great inconveniencies had arisen in other Colonies, from a depreciation of their paper money, occasioned by emitting it in too great quantities.

It

It was difficult to know beforehand, what quantity would be sufficient for a medium of exchange, proportioned to the trade of the country, and not to exceed the occasions.

To prevent the mischiefs attending an over quantity; the government of Pennsylvania began with a small sum of 15,000*l.* in 1723, proceeded to increase it gradually, in following years, and thus prudently *felt* for a proportion they could not previously *calculate*; and, as they never exceeded a moderate sum, the depreciation was never so great as to be attended with much inconvenience.

The advantages that arise from this act, were from a view thereof, in 1752, thus expressed, by a committee of assembly, in their report of August, 19th.

“ Furnishing the country with a medium
“ of trade, and of a kind that could not, to
“ any purpose, be exported; as it facilitated
“ mutual commerce, *lessened our taxes by*
“ *the interest it produced*; and made it more
“ easy for every one to obtain ready pay for
“ his labour, produce or goods, (a medium
“ so evidently wanted at the time paper-
“ money was first issued) has doubtless,
“ been

“ been one great means of the subsequent
 “ increase of our trade and people, by in-
 “ ducing strangers to come and settle among
 “ us. But your committee conceive that
 “ the manner of issuing this medium, con-
 “ tributed no less to those happy effects,
 “ than the medium itself. It was by the
 “ law directed to be emitted on loans, in
 “ sums of 12 *l.* 10 *s.* and upwards, not ex-
 “ ceeding 100 *l.* to one person for a long
 “ term, on easy interest, and payable in
 “ yearly quotas, which put it in the power of
 “ many, to purchase lands and make planta-
 “ tions; (the loan-office enabling them to
 “ pay the purchase so easily) and thereby to
 “ acquire estates to themselves, and to sup-
 “ port, and bring up families, but who
 “ without that assistance, would probably
 “ have continued longer in a single state,
 “ and as labourers for others, or have quit-
 “ ted the Colony in search of better fortune.
 “ This easy means of acquiring landed
 “ estates to themselves, has, we suppose,
 “ been one principal encouragement to the
 “ great removal hither of people from *Ger-*
 “ *many*, where they were only (and could
 “ scarce ever expect to be other than) ten-
 “ ants. That it should be easy for the in-
 “ dustrious poor to obtain lands, and acquire
 “ property in a country, may, indeed, be
 “ charge-

“ chargeable with one inconvenience, to
 “ wit, that it keeps up the price of labour,
 “ and it makes it more difficult for the *old*
 “ *settler* to procure working hands; the
 “ labourers very soon setting up for them-
 “ selves, (and accordingly we find, that
 “ though perhaps not less than 30,000 la-
 “ bourers have been imported into this pro-
 “ vince, within these twenty years, labour
 “ continues as dear as ever) yet this inconve-
 “ nience is perhaps more than ballanced by
 “ the rise and value of his lands, occasioned
 “ by increase of people: and to the public in
 “ general numbers of substantial inhabi-
 “ tants, have been always reckoned an ad-
 “ vantage. In fine, by rendering the means
 “ of purchasing land easy to the poor, the
 “ dominions of the crown are strengthened,
 “ and extended; the proprietaries dispose of
 “ their wilderness territory, the British na-
 “ tion secures the benefit of its manufac-
 “ tures, and increases the demand for them;
 “ for so long as land can be easily procured
 “ for settlements, between the *Atlantic* and
 “ *Pacific Oceans*, *so long will labour continue*
 “ *to be dear in America*; and while labour
 “ continues dear, we can never rival the
 “ artificers, or interfere with the trade of
 “ our mother country.”

But

But the act being expired, and the proprietors and the people differing about the terms of renewing it, the former, though they and their deputies had received annual presents out of the interest, amounting to near 40,000 *l.* yet, insisting on greater future advantages, which the assembly did not chuse to allow, *this excellent machine for settling a new country, now no longer subsists.* And as by the late act of parliament, no more paper-money can be issued in the Colonies, that shall be a *legal tender*, it may perhaps be necessary for government here to make some provision of a currency for the Colonies. If this should be necessary, the Pennsylvania scheme, which has by long experience, been found so practicable, and so useful, may, with a few changes, to accommodate it more to general purposes, be safely and advantageously extended to all the Colonies, by an act of parliament as follows.

Let millions, in bills of credit (or paper-money) be printed here, for the use of the Colonies.

Let a loan-office be erected in each Colony, to issue the bills, take the securities, and to receive the quota's yearly paid in.

Let

Let the bills be issued for ten years, payable a tenth part of the sum yearly with interest, at 5 *per cent.*

Let the Bills be made by the act, a *legal tender* in all the Colonies, and the counterfeiting made death. I desire to mark the very material difference of a paper currency created by act of parliament, and one issued to the Colonies, as the necessities only of the Colonists have occasion for it, from a paper currency poured like a deluge over a country, by act of assembly only: In the one case, the mischief of its being a legal tender, has been severely felt, and therefore forbidden: In the other case, the making it a legal tender; is not only beneficial but necessary.

Let there be no limitation of the sums to be borrowed by one person, but that every one may borrow as much as he can give double security for, by a mortgage of real clear estate.

And to prevent an over quantity being extant at one time, let an interest of 4 *per cent.* be allowed, for all sums lodged in the office; during the time the owner suffers it to remain there. *By this means, it is supposed, the due proportion of money that shall*

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be current, will find itself; and adapt itself from time to time, to the occasions of commerce.

The effects of this scheme would be, that although the silver and gold acquired by the Colonies, would be all sent to England: Yet they would have among them, in consequence of this measure, a legal tender.

They would also have a sufficiency of cash current for all purposes.

They would not have too much current at one time, as the allowance for interest for sums lodged in the office, would always bring in the surplus.

The settlement and improvement of new tracts of land would be greatly encouraged and promoted, population increased, trade extended, &c.

The means of remittance to England would be always at hand, and the commerce thereby facilitated.

A great annual sum, continually increasing, will arise to the crown for interest, which,

which, after deducting charges, may be applied to American purposes, in case of this kingdom; and become a *permanent and effective revenue*. A considerable profit will also arise to government, from the wearing out, and total loss of a great deal of small money.

It will operate as a general tax on the Colonies, *and yet not actually be one*; as he who *actually* pays the interest, *has an equivalent*, or more, in the use of the principal. But the tax, if it can be so called, will, in effect, spread itself more equally on all property, perhaps more so than any other tax that can be invented; since every one who has the money in his hands, does from the time he receives it, to the time he pays it away, *virtually* pay the interest of it, the first borrower having received the value of it (to use for his own profit) when he parted first with the original sum. Thus the rich who handle most money, would in reality pay most of the tax.

These bills having thus *full credit*, the government can issue, on occasion, any quantity for service, in case of an American war, without needing to send *real cash thither*, by *hurtful contracts*.

Plenty of money thus continued in the Colonies, will keep labour high, and thereby prevent the apprehended danger of interfering manufactures.

For the more easy ascertaining of titles, there should be a clause in the act, requiring that all transfers, conveyances and incumbrances whatsoever should be recorded,—this of itself would be a great advantage to the Colonies.

The manner of carrying this proposal into execution may be as follows.

An office to be established in London, to be managed by two Commissioners, appointed by the treasury; their salaries *per annum*, with *per annum*, for clerks and incidents of office, to be paid out of the revenue only, arising from the interest.

The business of this office to be

1. The printing of the paper-money.
2. The signing of it by the Commissioners.
3. The distribution of it to the offices in America.
4. The

4. The entering of what is sent, according to its number and denomination.

5. The communication and correspondence with the several loan-offices in the Colonies.

6. The drawing up the instructions for the same.

7. The receiving from these offices, accounts of the issuing the paper bills, these accounts to contain, 1. Account of the numbers and dates of bills issued. 2. State of the mortgages and securities. 3. Account of interest received. 4. Account of interest paid for deposited money. 5. Account of government drafts paid by the loan-office, and salaries paid to its several officers. 6 Account of bills exchanged, for those that are over-worn. 7. Account of receipts of principal money by instalments, &c.

And in general, the Commissioners from the monthly reports of the several offices in America, of every branch of their duty, are to form monthly abstracts and reports for the treasury, of the state of the money current, of the amount of the interest money in the loan-offices, at the government's disposal, of the state of each office, and the

farther regulations from time to time necessary to be made, either by orders from the treasury, instructions from the Commissioners, or further legal powers, or directions by act of parliament, or by instructions necessary to be sent to the governors in America, recommending acts of assembly proper to be made in that country.

The Commissioners are also to draw up directions and instructions to the *Inspectors*, whose office will be hereafter described.

And they are to superintend all the other parts of the administration and execution of this scheme, as will be more particularly pointed out hereafter, in the descriptions of the several offices and officers in America, with their respective duties.

Loan-Office in each province.

To consist of *Trustees*, *Solicitor*, and *Clerk*. The province to be divided into districts. A large province into eight districts, a small province into fewer.

Each district to have a Trustee appointed *out of its own resident inhabitants*, one who is a freeholder that can give sufficient security to the crown within the province. So that

that the loan-office of the largest province will consist of eight Trustees, and the smaller in proportion to their districts, into which they are divided, some not having more than two.

The Trustees to be appointed by act of assembly, and upon their appointment to qualify themselves, by giving the security required to the crown, and taking the usual oaths (or affirmation) and oath (or affirmation) of office.

Each Trustee to have 100 *l. per annum.* out of the interest arising by the loans of the bills.

The principal acting Trustee to reside in the capital of the province where the office is to be kept, and to have 200 *l.* or lets in some provinces, for his constant attendance, and the incidents of office, besides his salary in common with the rest.

The Trustees to be appointed, only for the term of five years, at the expiration whereof, they are to account fully to the governor in council, assisted by one of the inspectors hereafter described, and deliver up all books, deeds, deposited cash, &c.

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to their successors, upon which they are to receive their quietus.

All the Trustees are to meet once a month at the office, to sign the bills to be issued, to consider the applications for money, examine the goodness of the security offered, and fix the sum to be lent on each security, not less than a majority of the Trustees to order the loans, and not less than two to sign and date the bills to be issued. They are also to take charge of, and keep in some safe place, the security deeds mortgaged, and *they* are to chuse a person, skilled in the law of titles, to be their *Sollicitor*, who is to be paid by the fees arising in the office, viz. 20s. on every mortgage, for which he is to examine, and make extracts of the titles or securities offered, for the inspection of the *Chief Justice* of the province, if referred to him, and of the Trustees; to prepare the mortgage and counterpart, with the bond and warrant of attorney, and to record the mortgage. He is also to keep a book of applications, noting them down in the order of time in which they are made, the sum desired, and the security offered in mortgage. He is to get blank mortgages printed, of a prescribed form. There are to be triplicates of each mort-

mortgage, the first is to be executed by the mortgager, and lodged in the office, the second, an exact copy delivered to the mortgager for his direction, as it contains the times and proportions of payments, both of installments and interest, the third to be kept in a bound book and there made the record.

The clerk is also to be appointed by the Trustees. He keeps a book of allowances, so called, because therein is put down what sums the Trustees think proper to allow or lend to each applyer, according to their opinion, of the security offered. He also computes the quotas or installments and interest, making together, the sum to be paid each year, by the mortgager, and gives a copy thereof to the Solicitor, to be by him, after the approbation of the Trustees given to it, inserted in the mortgage. He keeps also a day book, in which is noted,

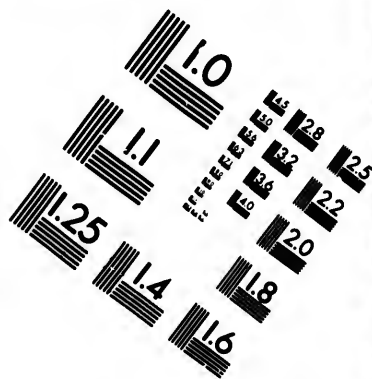
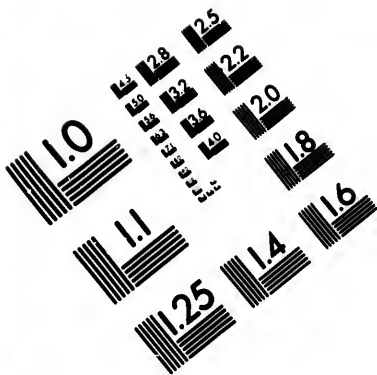
The emissions and receipts of each day,
viz.

The sums lent in mortgage, and to whom.

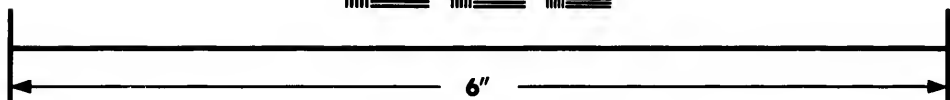
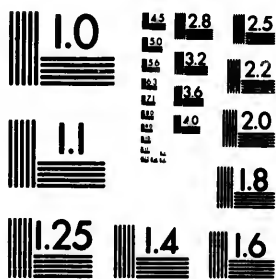
The sums received from each mortgager,
distinguishing principal and interest.

The





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(716) 872-4503

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The sums deposited in the office, for which 4 *per cent.* is to be allowed by the office.

The returning of such sums, with interest paid.

The sums of new bills exchanged for old.

The drafts of government for interest money, as paid by the Trustees.

The Trustees Salaries, when paid, and the allowance for incidents.

N. B. The person bringing any money bills to be deposited in the office, for the purpose of receiving the 4 *per cent.* is to prepare two schedules of said bills, one to be signed by the acting Trustee, and delivered to him, the other to be signed by him and delivered into the office, to be kept by the Trustees. And no sum under 100 *l.* is to be deposited on the terms of receiving interest, and *the interest must not commence till one month after the deposit made.*

The clerk is to keep a ledger, in which the day book accounts are to be posted up, under their respective heads.

The

The Trustees, from these books, &c. are to form monthly abstracts of the whole state of the currency, and the business of the office, and to send the same signed by a majority of the whole number, to the commissioner's office in England, in order that the commissioners may form states from time to time, as the treasury shall require, of the whole of the currency throughout the continent, as well as of the state of each office in the respective Colonies.

Provision for check and control of the execution of the office in America.

1. The direction and instructions of the commissioners residing in England.

2. Two *Inspectors* to be commissioned by the treasury, to act under their instructions, and the instructions of the commissioners, and to report to them. They are to visit all the offices in America at least once a year, and to inspect the accounts, cash, &c. as often as they shall see occasion, or shall be directed by their superiors, and to join with the governor and council of each province in the auditing of the accounts of the office. And, if upon any of these inspections, an inspector shall discover any mismanagement which requires immediate remedy, he is not

not only to report to the commissioners in England, but to the governor of the province, and if it appears to the governor and council necessary, the governor to call together the assembly immediately, in order to the appointing new Trustees, and to order, by advice of council, the prosecution of the delinquent Trustees, to the forfeiture of their securities, and such other penalties as they may have incurred.

3. The governor and council (the inspector assisting) to audit the accounts of the loan-office within each province annually. The governor and council to be allowed for their trouble,

N. B. In those provinces where the governor is not appointed by the crown, perhaps some addition may be thought proper to be made to this board for auditing.

4. A committee of the assembly to inspect the state of the office, for their own satisfaction and information, that in case they discover any mismanagement or delinquency, they may apply to the governor, that proper steps may be taken to remedy the same.

When the accounts are to be inspected and settled, the Trustees will be charged with

with the loan money put into their hands, and discharge themselves by producing mortgages for the whole, or for part, and the remainder in bills.

They will be charged with the new bills put into their hands, to exchange such as by wearing are become unfit for farther currency, and discharge themselves by producing such worn bills for part, and the remainder in new bills unexchanged.

They will be charged by the account, of interest received, and discharge themselves by their salaries, by government draughts which they have paid, by interest they have paid on sums deposited, and by producing the remainder in bills in their hands.

They will be charged with the parts of the principal sums received yearly, as instalments, and discharge themselves by mortgages on which the same was remitted, and the remainder in bills.

They will be charged with the sums deposited in their hands, to bear interest, and discharge themselves by producing receipts for what they have returned, and for interest paid, and bills in their hands for the sums they have not returned.

Having

Having now gone through the consideration of every point of internal administration, let us next review those external relations by which the interest of the American settlements stand connected with the Indian country and its inhabitants. Our Colonies must necessarily have connections both of trade and politicks with these people, of a nature different from any other, as they are planted in countries inhabited by a race of people, who differ in their circumstances and in their politicks from any other nation with whom there remains, either in history or on record, any example of alliance.

Perhaps it may not be unentertaining, I am sure it is necessary to the true knowledge of Indian affairs, to take up this subject somewhat higher than has been usual in the ordinary way of considering it.

The different manner in which this globe of earth is possessed, and occupied by the different species of the human race which inhabit it, must form the specific difference in their interests and politicks.

The human race, which is at present found on this earth, may be precisely divided into three families, generically, and in their essential properties, distinct and different each
from

from the other. And, for aught I know, it is to this natural truth, that the venerated pen of the author of the books of Moses may refer, when he gives precisely and only three sons to Noah. These three different species, or race, are—The white race—the red—the black. It is not barely the colour of these two first, which distinguishes them; the form of their skull, and their hair, where there has been no mixture, is specifically different from each other; and a true Indian will not judge by any other distinction: the black race has wool instead of hair, as also a form of skull different from each.

These books, after having given a philosophical account, cloathed in drama, of the origin of things, seem to confine their real narrative to the history of the white family, to that race of people who have been land-workers from the beginning, who, wherever they have spread themselves over the face of this globe, have carried with them the art of cultivating vines, and fruit trees—and the cultivation of bread corn; who, wherever they have extended themselves, have become settlers, and have constantly carried with them the sheep, goat, oxen and horse, domiciliated and specially applied to the uses and labour of a settlement.

Of the black family I say nothing in this place, as not concerned in the present consideration.

The red family, wherever found, are wanderers. The Tartars are in one part wandering herdsmen, and in other parts hunters and fishermen. The American inhabitants, Indians, as we call them, from the word Anjô, or Ynguo, signifying a man in their language, are the same race of people from one end of the continent to the other; and are the same race or family as the Tartars, precisely of the same colour, of the same form of skull, of the same species of hair,—not to mention the language and their names.

America, in its natural state, is one great forest of woods and lakes, stocked not with sheep, oxen, or horses; not with animals of labour, and such as may be domiciliated, but with wild beasts, game and fish; vegetating not with bread-corn, but with a species of pulse, which we call maize, of which there is great doubt whether it be indigenous or not.—All therefore that this country afforded for food or raiment must be hunted for. The inhabitants consequently would naturally be, as in fact they were, *not land-workers, but hunters; not settlers, but wanderers.*

derers. They would therefore, consequently, never have, as in fact they never had, any idea of property in land, of that property which arises from a man's mixing his labour with it. They would consequently never have, as in fact they never had, any one communion of rights and actions as extended to society; any one civil union; and consequently they would not ever have any government. They know no such thing as administrative or executive power, properly so called: they allow the authority of advice, a kind of legislative authority; but there is no civil coercion amongst them: they never had any one collective actuating power among the whole, nor any magistrate or magistrates to execute such power.

The race of white people migrating from Europe, still continue land-workers, and have made settlements in parts of America which they occupy, and have transported thither bread-corn, sheep, oxen, horses, and other usually domestic animals, that are domesticated with these settlers.

They are a community—they are a society—they live under government, and have a fixed property in their lands, have a fixed permanent interest, which must subsist *under a continued series of security.* The lo-

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cality

cality of the labour of these settlers, necessarily produces a reciprocation of wants and an intercommunion of supply, by exchange of mutual necessaries. This also leads to an intercourse of commerce with others, who are not immediately within their community—And hence arises a commercial interest to these settlers.

From the European desire of having the furs and peltry of the Indian hunters, and from the Indian desire of having the more useful and necessary tools and instruments of improved life, an artificial reciprocation of wants has arisen between the European settlers, and the original inhabitants of America, which hath gradually extended itself to many articles not at first called for— And from this intercourse of commerce has arisen a necessary relation of politicks between them.

The only true spirit which ought to actuate these politicks, must arise from a due knowledge of the circumstances and interests of each, and from a constant invariable attention to that composite interest which is formed by their alliance.

The interest of a community of settlers must lye in a *permanent series of security* to their
 their

their cultured lands, as the making settlements is by the successive yearly application of repeated labour, and of its eventual future effect. Settlers and landworkers want but small tracts of land; but must have a fixed and permanent local property therein. A nation of hunters require a much greater extent of country, in the proportion that the wide extended produce of a hunt, bears to the local bounded produce of a farm or settlement; so that the Indian property of country consists of two sorts, their dwelling lands and their hunt.

The interest of a tribe of wanderers lies in the protection and support of the aged, of the women and children—under the temporary locations of dwelling, which the severity of the winter season, the occasion of the procuring pulse in the season of vegetation, and the times of parturition, render necessary even to wanderers.

As fixed regulations and protection of trade, must be the essential spirit of the politics and the law of nations to a commercial nation *, so an exact and strict observ-

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ance

* Hunting being but the amusement, the diversion of a nation of settlers, the rights and laws of it may not appear as national points—but to a nation of hun-

ters

ance of the laws of sporting, the protection of the game, and the most rigid sanction of the *bunt*, (better perhaps understood by our sportsmen than our politicians) become the *laws of nations* to an *bunting nation*.

From these principles let us carry our considerations into facts.

The European landworkers, when they came to settle in America, began trading with the Indians; * obtained leave of the In-

ters these become the national interests and the laws of nations.—A violation of these laws of nations; as subsisting between nations of hunters, was the cause of the war between the Five-nation confederacy, and the Oilinois. The Ohio hunt, to the south-east of lake Erie, was common to these nations; the laws of the hunt required, that at each beaver-pond, the Indians should leave a certain number of males and females; the Oilinois, on some occasion of pique, destroyed all. The Five-nations declared war against the Oilinies. The Indian war ends not but in the total reduction of the one or the other. The Oilinois were totally conquered. The conquered country, as well as the hunt, became the right of the Five-nations, and were, amongst the rest of their lands, put, by them, into the hands of the English in trust.

* Perhaps New-England may be an exception: The Indians began an unjust war against them; they conquered these Indians, and their claim is best, as well as justly, founded in conquest, which the Indians acknowledge.

dians to cultivate small tracts as settlements or dwellings. The Indians having no other idea of property, than what was conformable to their transient temporary dwelling-places, easily granted this. When they came to perceive the very different effect of settlements of landworkers creating a permanent property always extending itself, they became very uneasy; but yet, in the true spirit of justice and honour, abided by the effects of concessions which they had made, but which they would not have made, had they understood beforehand the force of them.

From this moment the politics of the Indians were fixed on, and confined to, two points. The guarding their dwelling lands and their hunts from the encroachments of the European settlers; and the perpetually labouring, to our utter shame, in vain, to establish some equitable and fixed regulations in the trade carried on between them and the Europeans.

The European encroachments, not only by the extent of their settlements, but by their presuming to build forts in the Indian dwelling lands, and in the territories of their hunts, without leave, or by collusion; and the impositions and frauds committed against the Indians in trading with them, has been

the occasion of constant complaint from the Indians, and the invariable source of Indian hostilities: and yet even these might have been surmounted, were it not that we have constantly added an aggravation to this injustice, by claiming a DOMINION in consequence of a *landed possession*. Against this the free spirit of an Indian will revolt, to the last drop of his blood: This will be perpetual, unremitted cause of war to them against us. Against it, they have at all times, and upon all occasions protested, and they will never give it up. As long as we keep up this useless, faithless claim of dominion over them, so long shall we be embroiled in war with them. The European power may perhaps finally extirpate them, but can never conquer them. The perpetually increasing generations of Europeans in America, may supply numbers that must, in the end, wear out these poor Indian inhabitants from their own country; but we shall pay dear, both in blood and treasure, in the mean while, for our horrid injustice. Our frontiers, from the nature of advancing settlements, dispersed along the branchings of the upper parts of our rivers, and scattered in the disunited vallies, amidst the mountains, must be always unguarded, and defenceless against the incursions of Indians. And were we able, under an Indian war, to advance our settle-

settlements yet farther, they would be advanced up to the very dens of those savages. A settler wholly intent upon labouring on the soil, cannot stand to his arms, nor defend himself against, nor seek his enemy: Environed with woods and swamps, he knows nothing of the country beyond his farm: The Indian knows every spot for ambush or defence. The farmer, driven from his little cultured lot into the woods, is lost: the Indian in the woods, is every where at home; every bush, every thicket, is a camp to the Indian, from whence, at the very moment when he is sure of his blow, he can rush upon his prey. The farmer's cow, or his horse, cannot go into the woods, where alone they must subsist: his wife and children, if they shut themselves up in their poor wretched loghouse, will be burnt in it: and the husbandman in the field will be shot down while his hand holds the plough. An European settler can make but momentary efforts of war, in hopes to gain some point, that he may by it obtain a series of security, under which to work his lands in peace: The Indian's whole life is a warfare, and his operations never discontinued. In short, our frontier settlements must ever lie at the mercy of the savages: and a settler is the natural prey to an Indian, whose sole occupation is war and hunting. To countries circum-

stanced as our Colonies are, an Indian is the most dreadful of enemies. For, in a war with Indians, no force whatever can defend our frontiers from being a constant wretched scene of conflagrations, and of the most shocking murders. Whereas on the contrary, our temporary expeditions against these Indians, even if successful, can do these wanderers little harm. Every article of their property is portable, which they always carry with them—And it is no great matter of distress to an Indian to be driven from his dwelling ground, who finds a home in the first place that he sits down upon. And of this formidable enemy, the numbers, by * the latest accounts, are 23105 fighting men.

If we entertain an idea of conquest, in support of this ambitious folly of dominion, we must form such a series of magazines and entrepôts for stores, ammunition and provisions; we must maintain in constant employ such a numerous train of waggons for the roads, such multitudes of boats and vessels for the waters; we must establish such a train of fortified posts; we must support such a numerous army; we must form and execute such an enlarged and comprehensive system of command, as shall give us military possession of the whole Indian coun-

* This refers to the year 1763.

try.

try. Let now any soldier or politician consider the enormous endless expence of all this conduct, and then answer to what profitable purpose such measure leads, which may in a much better and juster way be obtained.

If our government considers this well, and will listen to those who are best versed in Indian affairs, it will be convinced that honesty is the best policy ; and that our dominion in America, will be best and surest founded in faith and justice, toward the remnant of these much injured natives of the country.

In this hope, and with this view, I will endeavour to state the Indian rights and our duty toward them ; and to point out that line of conduct, which leads to it—And first of the Kenunſtoni, or the Five-nation confederacy.

The Indian lands are of two kinds——
Their dwelling land, where their castles are, and their hunting ground. The dwelling lands of the Kenunſtoni, or the Five-nation confederacy, is called Kenunſtoniga, and is at the top or highest part of the continent, from whence the waters run every way—By the waters of Canada into the gulph

gulph of St. Laurence, by all the rivers of
 the English Colonies into the Atlantic ocean,
 by the waters of the Mississippi into the gulph
 of Mexico. They may, in a general manner,
 be thus described, by a line run from near
 Albany, north-westward, along the Mohawk
 river on the north side of it, north round
 Oneida lake, to the north-east corner of lake
 Ontario, thence along the lakes to Cana-
 hôga on lake Oswego or Erie; thence sixty
 miles directly back into the country; thence
 to Shamôkin, on the Susquehanna river;
 thence along the Cushiêtung mountains;
 thence again to the lower Mohawk castles.
 The Indians themselves describing, under
 confidence, to a friend of mine at Ononda-
 ga, this their situation, said, " That it has
 " many advantages superior to any other
 " part of America. The endless moun-
 " tains separate them from the English, all
 " the way from Albany to Georgia. If
 " they should have any design against the
 " English, they can suddenly come down
 " the Mohawk's river, the Delaware, the
 " Susquehanna, and Potomac, and that
 " with the stream. They have the same
 " advantage of invading the French, by
 " the waters of the river St. Lawrence,
 " Sorel, &c. If the French should pre-
 " vail against this country, they can, with
 " their old men, wives and children, come
 " down

“ down the streams to the English. If the
“ English should prevail in attacking their
“ country, they have the same conveyance
“ down to the French ; and if both should
“ join against them, they can retire across
“ the lakes.”

Their hunting lands are—*First*, Couxfachraga, a triangle, lying on the south-east side of Canada, or St. Lawrence river, bounded eastward by Saragtoga, and the drowned lands ; northward, by a line from Regiôchne point (on lake Champlain, or, as the Indians call it, Caniaderiguarûnte, the lake that is the gate of the country) through the Cloven rock, on the same lake, to Ofwegatchie, or la Galette ; south-westward by the dwelling lands of the Mohawks, Oneida, and Tuscaroraos.

Secondly, Ohio, all that fine country (and therefore called Ohio) lying on the south and east sides of lake Erie, south-east of their dwelling lands.

Thirdly, Tieuckfouckrondtie ; all that tract of country lying between the lakes Erie and Oilinois.

Fourthly, 'Scaniaderiada, or the country beyond the lake ; all that tract of country
lying

lying on the north of lake Erie, and north-west of lake Ontario, and between the lakes Ontario and Hurons.

The right of the Five-nation confederacy to their dwelling lands and the hunting ground of Couxfachrága, and even down to the bottom of lake Champlain, was never disputed. The lands to the northward of Regiôchne, and la Galette, have long since been ceded to the Canada Indians as an hunting ground.

In the year 1684, the Five nations finding themselves hard pressed by the French and their Indians, did, by a treaty at Albany, put the lands and castles of the Mohawks and Oneidas *under the protection of the English government*: and the English accordingly undertook *the trust* to guarantee them to these Indians. And as the external mark, by which this act and deed should be announced, the Indians desired that the duke of York's arms might be affixed to their castles.

The right of the Five-nation confederacy to the hunting lands of Ohio, Tieuück-fouchrondite and Scaniaderiada, by the conquest they had made in subduing the Shaöanaes, Delawares, (as we call them) Twic-
twes

twes and Oilinois, may be fairly proved as they stood possessed thereof, at the pace of Reswick, in 1697.

In the year 1701, they put all their hunting lands under the protection of the English, as appears by the records, and by the recital and confirmation thereof in the following deed.

In the year 1726, the Seneccas, Cayougaes and Ononda-agaes acceded to the same terms of alliance, in which the Mohaws and Oneidas were already——So that the whole of the dwelling and hunting lands of the Five-nation confederacy were put under the protection of the English, and held by them IN TRUST, for and to the USE of these Indians and their posterity.

Copy of Agreement with the Sachems of the Five Nations.

TO all people to whom this present instrument of writing shall come, Whereas the Sachems of the Five Nations did, on the nineteenth day of July, One thousand seven hundred and one, in a conference held at Albany, between John Nanfan, Esq; late lieutenant-governor of new-York, give and render up all their land where the beaver-hunting

hunting is, which they won with the sword, then 80 years ago, to Coorakhoo *, our great King, praying that he might be their protector and defender there, for which they desired that their secretary might then draw an instrument for them, to sign and seal, that it might be carried to the King, as by the minutes thereof, now in the custody of the secretary for Indian affairs at Albany, may fully, and at large appear.

WE, Kanakarighton and Shanintfaronwe, Sinneke Sachems; Ottfoghkoree Dekaniforee and Aenjeueratt, Cayouge Sachems; Raelyakadorodon and Sadageenaghtie, Onondaga Sachems, of our own accord, free and voluntary will, do hereby ratify, confirm, submit and grant; and by these presents do (for ourselves, our heirs and successors, and in behalf of the whole Nations of Sinnekes, Cayouges and Onondages) ratify, confirm, submit and grant unto our most Sovereign Lord George, by the Grace of God, King of Great Britain, France, and Ireland, Defender of the Faith, &c. his heirs and successors for ever, all the said land and beaver-hunting, *to be protected and defended by his said majesty*, his heirs and suc-

* It is by this name that they mean the King of England.

cessors,

cessors, *to and for the USE of us, our heirs and successors, and the said three Nations*; and we do also of our own accord, free and voluntary will, give, render, submit and grant, and by these presents do, for ourselves, our heirs and successors, give, render, submit, and grant unto our said Sovereign Lord King George, his heirs and successors for ever, all that land lying and being sixty miles distance taken directly from the water, into the country, beginning from a Creek called Canahôge, on the lake Oswego, all along the said lake, and all along the narrow passage from the said lake to the falls of Oniâgara, called Canaquaraghe, and all along the river of Oniâgara, and all along the lake Cataragui to the creek called Sodons, belonging to the Sinnekes, and from Sodons to the hill called Tegechunckferôde, belonging to the Cayouges, and from Tegechunckferôde to the creek called Cayhunghâge, belonging to the Ononages; all the said lands being of the breadth of sixty English miles as aforesaid, all the way from the aforesaid lakes or rivers, directly into the country, and thereby including all the castles of the aforesaid three Nations, with all the rivers, creeks and lakes, within the said limits, *to be protected and defended by his said majesty, his heirs and successors for ever, to and for our*

USE,

USE, our heirs and successors, and the said three nations.—

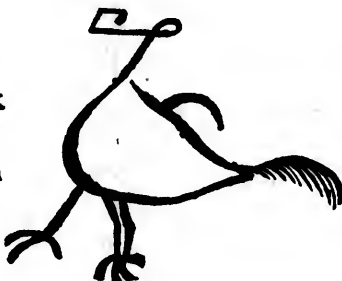
In testimony whereof, we have hereunto set our marks and affixed our seals, in the city of Albany, this fourteenth day of September, in the thirteenth year of his majesty's reign, *Annoque Domini 1726.*

The mark of
Raclyakado-
rodon.



a Sachem of
the ononda-
ges. (L. S.)

The mark
of Kana-
karighton



a Sachem
of the Sin-
nekes.
(L. S.)

The mark of
Otfoghkoree,



a Sachem of the
Cayouges.
(L. S.)

The

The mark of Sa-
degeenaghtie,



a Sachem of the
Onondages. (L.S.)

The mark of
Dekaniforce,



a Sachem of the
Cayouges.
(L. S.)

The mark of
Shanintfa-
ronwee,



a Sachem of
the Sinnekes.
(L. S.)

T

The

The mark
of Aenjew-
cratt,



a Sachem of
the Cayou-
ges. (L. S.)

Signed, sealed, and delivered,
in the Presence of us

Philip Livingston,
Peter Vanbrugh,

Mynderst Schuyler,
Lawrence Claufen.

Secretary's Office, New-York. The pre-
ceding is a true copy of the Record in Lib.
Patents, Numb. 9. p. 253, 254. Examined
and compared therewith by

GEO. BANYER, Deputy Secretary.

Instead of executing *this trust* faithfully and
with honour, by extending to the Indians
our civil protection against the frauds of the
English, and our military protection against
the attempts of the French, we have used
this trust only as a pretence to *assume a domi-
nion* over them—We have suffered the En-
glish settlers to profit of every bad occasion
to defraud them of their lands—We have
never

never made any effectual regulations to prevent their being defrauded in their trade; and until our own interest appeared to be affected, we abandoned them to their own chance and force, opposed to the strength of a powerful enemy. Nay, when at last we thought necessary for the sake, not of national faith and honour, for the sake, not of these our faithful allies, but for the sake of our own safety and interest to interfere, in opposing the French encroachments, we took it up as disputing the empire of America with the French; not as protecting and guarding the Indian lands and interest to their use, agreeable to the sacred trust by which we were bound.—And thus these savages (as we to our own shame call them) repeatedly told us, “ That both we and the French sought to amuse them with *fine tales* of our several upright intentions; that both parties told them, that they made war for the protection of the Indian rights, but that *our actions* plainly discovered that the war was only a contest who should become masters of the country, which was the property neither of the one nor the other.” Since we have driven the French government from America, we have confirmed this charge of the Indians against us, by assuming that dominion which in faith and justice we cannot

say we have gained over the Indians, which, in fact, we have not gained, and which, be it remembered, will cost more blood and treasure before we do gain it, than it is for the honour and interest of Great-Britain to expend in so bad and useless a cause. While these poor tribes of hunters remain, it will be our own fault if they do not remain in perfect harmony and good alliance with us. As hunters, their interest can never interfere with ours, as settlers; but, on the contrary, will become the source of the natural and most profitable trade to us as traders. They are continually wearing away, and as they diminish or retire, they cede their lands to us in peace; which we, thus in time as fast as we can really want them, may possess in right and justice, untainted with the impeachment of having been gained by murder and fraud. While therefore we do remain a great and just nation, as we pride ourselves Great-Britain is, we should abhor the black base thought of using the power which providence hath given us, to the ruin and destruction of these brave and free people; of these people who gave us our first settlement in this country, and have lived with us, except under some temporary interruptions, in a series of faithful alliance.

If

If these considerations, taken up in the course of that general review of the Colonies, and of the administration of their affairs, which I now publish, were intended as an express treatise on Indian affairs, I should think it right to examine all the complaints and several claims of justice which the Five-nations have made, and have repeated for many years, which I would find first on extracts from the records of Indian affairs, and secondly, on the history of the landed patents, and thirdly, on the occasions taken to erect, without their leave, forts on the Indian lands, which measure the Indians always consider as an act of dominion. In this general view I shall only point out that shameful patent of Ka-y-adarofferos above Albany: that pretence of claim by the corporation of Albany for the Mohawk-flats, the very residence of the Mohawks, and some others on the carrying place, at the head of the Mohawk river—all which ought to be taken into immediate consideration, that justice may be done both to the Indian and European claimants; and that the matter may not remain perpetual cause of umbrage, and perhaps the source of war. Government ought also very seriously to revise the principles on which they are now endeavouring to take possession of the Indian country by forts and

garifons; built many within the Indian dwelling lands, and many within their hunting lands, and on the paffes and communications of thefe. It is undoubtedly right to maintain the command of that country; but there is a way to do it with fafety and juftice. The meafures we are taking by force will be found to have neither the one nor the other in them; nor do I fee how common prudence can adopt the enormous charge to which fuch meafures muft lead.

We have feen that Sir William Johnfon, although he took Niagara *from the French* by force of arms, never confidered this as a conqueft of thefe lands *from Indians*; but has, agreeably to his ufual prudence and his perfect knowledge of Indian affairs, obtained by formal treaty, a ceflion of thefe lands from the Indians to the crown of Great-Britain. The wifdom, as well as the fuccefs of this example, ought to lead our politicks to the fame conduct in every other cafe, where we have built or obtained forts within their lands, efpecially as many of them were built under exprefs promife of their being difmantled as foon as the war fhould ceafe: and as the Indians were exprefsly and folemnly promifed to have a fatisfaction given to them for the ufe of thefe lands.

The

The Shawänese and Delawares are more immediately connected with the province of Pennsylvania; and although, as subdued, they are under obedience to the confederacy of the Five-nations; yet, under tutelage and protection of the confederacy, they possess their rights to their own country. Was this, as I have said, a particular treatise on Indian affairs, I might here point out "*the causes of the alienation of the Delawares and Shawänese Indians from the British interest, by extracts from the public treaties, and other authentic papers relating to the transactions between the government of Pennsylvania and the said Indians for near forty years past,*" as set forth in a memoir which I have had by me for many years. I could also from a series * of letters for ten years, from Monsieur de Vaudreüil, while governor of Louisiana, to his court, point out these neglects and errors, as also the manner in which the French profited of those our errors, by which we lost the Cherokees, and other southern tribes.

After what has been explained, it will be sufficient here to say, that, 1st, Doing justice

* These letters in manuscript are authentic; but I am not at liberty to say how they came into my possession.

to our faith and honour, by treating the Indians according to the real spirit of our alliances with them; 2dly, That doing the Indians justice in their lands, and 3dly, giving up that idle, useless claim of dominion over them, are points absolutely and indispensibly necessary to be adopted into our politics, unless we have seriously taken the resolution to force our way by war. Until these points are adopted, we never shall have peace—And it deserves thorough and mature deliberation how we engage to settle and possess America by war.

These measures of sound policy once fixed upon, the next step is to establish an Administration for the conducting Indian affairs— This part of the plan which I proposed is in part adopted, by dividing the management of Indian affairs into two Intendencies—one for the northern, the other for the southern nations, but, as every thing which I could say further on this head hath been some years past stated in the memorial annexed to these papers, I will here refer the reader to that memorial on these points. The measures recommended therein I have by an opportunity of comparing them with the events of eight † years, found to be such as I do most sincerely wish may be carried into execution. And if a

† This refers to the year 1755.

private person might presume to obtrude advice, which has not formerly been neglected, when the affairs of the plantations were full as happily administered, as they have been of late. I would now venture to recommend the consideration of these measures to those whose duty it is to act upon these matters. When these matters shall be settled as they ought to be, then it may be time to take up the consideration of proper regulations for the Indian trade; and when that time comes, if a plan, which I have accidentally seen, be carried into execution, I would venture to say, that every thing which can or ought to be done in Indian affairs will be effected.

If with the same spirit, guided by the same principles *, a revision was made of the laws of trade, so far as they respect the Colonies, it would answer more wise ends of government, and more the interest of the governed, both here as well as in the Colonies, than any endeavour, even though successful, to carry the present laws into execution.

The principles on which the act of navigation is founded are just, and of sound po-

* This hath been in part done by the late American revenue act.

licy ;

licy; but the application of them, by the modes prescribed, as the laws now stand, to the present state of the Colony trade, is neither founded in justice or prudence. Any spirit that would force this application, would injure the principles themselves, and prove injurious to that commercial interest, which those very acts of trade mean to secure to Great Britain: whereas, upon a due revision of those laws, it would appear that there are means of producing this same end consistent with the particular interest of the Colonies, and what would carry the general commercial interest of the mother country to the utmost extent that it is capable of.

The laws of trade respecting America were framed and enacted for the regulating *mere plantations*, tracts of foreign country, employed in raising certain specified and enumerated commodities, solely for the use of the trade and manufactures of the mother-country—the purchase of which, the mother-country appropriated to itself. These laws considered these plantations as a kind of farms, which the mother country had caused to be worked and cultured for its own use. But the spirit of commerce, operating on the nature and situation of these external dominions, beyond what the mother country or the Colonists themselves ever thought

thought of, planned, or even hoped for, has wrought up these plantations to become objects of trade; has enlarged and combined the intercourse of the barter and exchange of their various produce, into a very complex and extensive commercial interest: The operation of this spirit, has, in every source of interest and power, raised and established the *British government on a grand commercial basis*, has by the same power to the true purposes of the same interest, extended the British dominions through every part of the Atlantic Ocean, to the actually forming A GRAND MARINE EMPIRE, if the administration of our government, will do their part, by extending the British government to wheresoever the British dominions do extend. If, on the contrary, we are predetermined to carry into strict and literal execution, the navigation act, and other laws respecting the plantation trade—without reviewing and considering what the very different circumstances of the Colonies now are, from what they were when they were first settled, merely as plantations, and when these laws were first made,—we must determine to reduce our Colonies again to such mere plantations: We must either narrow the bottom of our commercial interest, to the model of our plantation laws, or we must enlarge the
spirit

spirit of our commercial laws, to that latitude to which our commercial interest does actually extend. Thus stands the fact. This is the truth. There is no other alternative. But if we would profit of them in those great commercial benefits, to those great political purposes, which they are capable to produce; which they lead to; which the whole strain of our politics have, for many years, taught us to value ourselves upon; and which have really been the source of all our wealth and power; we must examine thoroughly the state of this commercial interest, we must make a sincere, unprejudiced and candid review of these laws of trade,—and by true and more enlarged principles, model them on the ideas of regulating the conduct and the interest, of various and widely extended parts of a one great commercial dominion.

I will first describe the circuit of the North American commerce, and then suggest some such measures as may tend to produce a happy establishment of our trading interest, on true commercial principles. As the matters contained in the following representation, are fairly stated, according to the truth and fact, and the consequences thence deduced, are such as actual experience

ence shows to be in existence, I am sure I cannot give a more clear, distinct, or better state of the American commerce than it contains.

† This representation states, that it is the singular disadvantage of the Northern British Colonies, that, while they stand in need of vast quantities of the manufactures of Great Britain, the country is productive of very little which affords a direct remittance thither in payment; and that from necessity therefore, the inhabitants have been driven to seek a market for their produce, where it could be vended, and, by a course of traffick, to acquire either money or such merchandize as would answer the purpose of a remittance, and enable them to sustain their credit with the mother country; that the prodigious balance arising in her favour is a fact too well known to the merchants of Great Britain trading to those parts to need any elucidation; but, as the nature of the petitioners commerce when free from restraints, *which they think of fatal effect, and destructive to it,* ought to be understood, they beg leave to observe that their produce then sent to our own and the foreign islands, was chiefly bartered for sugar, rum, melasses, cotton, and indigo; that the sugar, cotton, and indigo, served as remittance to

† New-York petition.

Great Britain; but the * rum and melasses constituted essential branches of the petitioners commerce, and enabled them to barter with our own Colonies for fish and rice, and by that means to pursue a valuable trade with *Spain, Portugal, and Italy*, where they chiefly obtained money or bills of exchange in return; and likewise qualified them for adventures to Africa, where they had the advantage of putting off great quantities of British manufactures, and of receiving in exchange gold, ivory, and slaves, which last, disposed of in the West India islands,

* This rum and melasses became, to the Carolinas and other southern Colonies, not only a matter of aid in their own consumption, but also an article in their Indian commerce; became to the inhabitants of New England and New Scotland, an aid in their internal consumption, but also a considerable aid to the consumption in their fishery. The avowed and chief articles of commerce between North America and the parts of Europe to the southward of Cape Finistère are, fish and rice. Rice is the produce of Carolina, and the fishery is the more peculiar business of New England and Nova Scotia. Each of these countries produces and manufactures, the one more rice, the other more fish than they consume in their own subsistence and in their own foreign trade, and so each exchanges that surplusage for the rum, or rather the melasses which the New Yorkers fetch from the West Indies. By which the New Yorkers, like the Dutch in Father-land, chiefly carriers, are enabled to make out adventures to the Streights and to Africa.

commanded money or bills: Rum was indispensable in their Indian trade; and, with British manufactures, procured furs and skins, which served for considerable returns to Great Britain, and encreased the revenue thereof; that the trade to the bay of Honduras was also very material to their commerce, being managed with small cargoes of provisions, rum, and British manufactures, which, while they were at liberty to send foreign logwood to the different ports in Europe, furnished them with another valuable branch of remittance; that, from this view, it is evident that sugar, rum, melasses, and logwood, with cotton and indigo, are the essentials of their return-cargoes, and the chief sources from which, in a course of trade, that they have extended their usefulness to, and maintained their credit with Great Britain.

That considering the prodigious consumption of West India produce in Great Britain, Ireland, and the continental Colonies, the rapid increase of those Colonies, their inhabitants already exceeding † two millions, the vast accession of subjects by the late conquests, besides the innumerable tribes of In-

† Including the Blacks.

dians in the extensive countries annexed to the British crown, the utter incapacity of our own islands to supply so great a demand, must be out of all question: on the other hand, the lumber produced from clearing this immense territory, * and provisions extracted from the fertile soil, which most of the inhabitants are employed in cultivating, must raise a supply for exportation, with which the consumption of our own islands can bear no sort of proportion; † that it seems therefore consistent with sound policy to indulge those Colonies in a free and unrestrained exportation of all the lumber and produce they raise and can spare, and an

* This includes bread, corn, biscuit, flour, beef, pork, horses, and the smaller articles of live stock.

† If we, by artificial restraints, endeavour to cut off from between the foreign West India islands, and our North American Colonies, that intercourse and exchange of supplies which is now necessary to them, or to clogg it in a manner that renders it detrimental or impracticable to those islands,—may we not force them into what should seem their natural course of commerce, an intercourse with their own Colonies, in the southern latitudes; whence they may be supplied with all those articles of lumber and live stock and bread, corn, &c. which at present, by a lucky, rather than a natural or necessary course of trade, create almost a monopoly to the Northern American Colonies of the West India supply.—

ample importation of sugar, rum, and me-
lasses, to supply the various branches of their
trade, to which they appear so necessary,
that, without the one, the clearing of new
lands, which is extremely laborious and ex-
pensive, will be discouraged; and provisions,
for want of vent, become of little profit to
the farmer; without the other, the pe-
titioners must be plunged into a total incapa-
city of making good their payments for Bri-
tish debts; their credit must sink, and their
imports from Great Britain gradually dimi-
nish, till they are *contracted to the narrow
compass of remittances, barely in articles of
their own produce*; and that, how little soe-
ver their interest of commerce could be pro-
moted, the Colonies, thus checked, must,
from inevitable necessity, betake themselves
to manufactures of their own, which will be
attended with consequences very detrimental
to those of Great Britain. The petitioners,
having thus represented the nature of their
commerce, proceed to point out the several
grievances, which it labours under, from
the regulations prescribed by the laws of
trade; and which, if not remedied, they
conceive must have a direct tendency to pre-
vent the cultivation, and ruin the trade, of
the Colonies, and prove highly pernicious

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to both the landed and trading interest of Great Britain *.

That the heavy embarrassments, which attend the article of sugar, is a capital subject of complaint; and, besides the absolute necessity of a great importation to sustain their trade, it is a well known truth, that it often happens, at the foreign islands with which they have intercourse, that a sufficient return-cargo, independent of sugar, cannot be procured, which alone must render trade precarious and discouraging; but the high duty of five shillings sterling a hundred is proved, by experience, to be excessive, and has induced the fair trader to decline that branch of business, while it presents an irresistible incentive to smuggling, to people less scrupulous; that it answers not the purposes of the government, or of the nation, since it cannot be duly collected, and, if it could, would have a necessary tendency to contract remittances for British debts, while,

* Whether the British merchant will attend to this or not—it is nevertheless true. The views of merchants seldom, in course of trade, go beyond themselves and the present profit,—but the statesman, whether we look to him in administration or in parliament, ought thoroughly to weigh the truth and consequence of this asserted fact, as it may affect the British commerce in general.

at the same time, it is most mischievous to the Colonies, by cutting off one of the grand springs of their traffic; and, that the pressure of this duty is not aggravated, the petitioners appeal to the officers of the customs of their port, that the petitioners therefore most humbly intreat, that a moderate duty be laid on foreign sugars, which, they are assured, would not only greatly conduce to the prosperity of those Colonies, and their utility to the mother country, but encrease the royal revenue far beyond what can be expected under the present restraints.

† That the compelling merchants to land and store foreign sugars in Great Britain, before they can be exported to other parts of Europe, is another most expensive and dilatory restriction, without being of any material advantage to the revenue of Great Britain; for it effectually puts it out of the petitioners power, to meet foreigners at market upon an equal footing, is a great and heavy burden in times of peace and security, but in war will expose the trader to such

† That the New Yorkers, only carriers, should regard this regulation with uneasiness, is natural, but surely it is a wise and prudent regulation, for the benefit of the British Isles, to create and give a preference to the British produce and manufacture of the subjects of those Islands.

peril and hazard, as must wholly extinguish this useful branch of remittance; that British plantation sugar exported from North America, should be declared French on being landed in England, the petitioners conceive may justly be classed among the number of hardships, inflicted by those regulations, as in effect it deprives them of making a remittance in that article, by exposing them to the payment of the foreign duty in Great Britain, which appears the more severe, as their fellow subjects of the islands are left at liberty to export those sugars for what they really are, and a distinction is thus created in their favour, which the petitioners cannot but regard with uneasiness.

That foreign rum, French excepted, is the next article which the petitioners most humbly propose for consideration, as the imposition thereof, on a moderate duty, would add considerably to the revenue, prevent smuggling, promote the petitioners navigation, encrease the vent of their own produce with British manufactures, and enable them to bring back the full value of their cargoes, more especially from the Danish islands of St. Thomas and St. Croix, from whence they can now only receive half the value in sugar and cotton, consequently rum alone can be expected for the other half,
those

those islands affording nothing else for returns, and having no specie but of a base kind.

That the exportation of foreign logwood to foreign markets, has already been distinguished as one of the principal means, by which those Colonies have been enabled to sustain the weight of their debts for British manufactures, and it is with the greatest concern, the petitioners observe it to be ranked by the late act among the enumerated articles; and consequently made subject to the delay, the hazard, and expence, of being landed in Great Britain; the low price of logwood, its bulk, and the duty with which it is now burthened, must totally destroy that valuable branch of the petitioners commerce, and throw it into the hands of foreigners, unfettered with those heavy embarrassments.

That their lumber and pot-ash even when shipped for Ireland, where they are so necessary, the latter particularly for the progress of their linen manufacture, and provisions themselves, though intended to relieve that kingdom from a famine, are subject to the same distressing impediments; nor is flax-seed, on the timely importation of which the very existence of the linen manufacture

of Ireland immediately depends, exempted, although it is a fact capable of the most satisfactory proof, that, without the delay now created, it has been with difficulty transported from that Colony, to be there in proper season for sowing; that what renders so injurious an obstruction the more affecting is the reflection, that, while it deprives the petitioners of the benefits arising from flax-seed, lumber, and pot-ash, these articles may all be imported into Ireland directly from the Baltic, where they are purchased from foreigners, under the national disadvantage of being paid for with money instead of manufactures; and the petitioners therefore humbly beg leave to express their hopes, that an evil in so high a degree pernicious to them, to the staple of Ireland, and to the trade and manufactures of Great Britain, and which in times of war must fall on all with a redoubled weight, will not fail of obtaining the attention of the house, and an immediate and effectual redress.

That they beg leave further to represent, that the wines from the islands, in exchange for wheat, flour, fish, and lumber, would considerably augment the important article of remittance, was the American duty withdrawn, on exportation to Great Britain: and that it is therefore humbly submitted, whether

whether such an expedient, calculated at once to attach them to husbandry by expanding the consumption of American produce, to encourage British manufactures by enabling the petitioners to make good their payments, and to encrease the royal revenue by an additional import of wines into Great Britain, will not be consistent with the united interests both of the mother country and her Colonies.

That the petitioners conceive the North American fishery to be an object of the highest national importance; that nothing is so essential for the support of navigation, since by employing annually so great a number of shipping, it constitutes a respectable nursery for seamen, and is so clearly advantageous for remittances, in payment for British manufactures; that the petitioners therefore humbly presume, that it will be cherished by the house with every possible mark of indulgence, and every impediment be removed, which tends to check its progress.

That the enlarging the jurisdiction of the admiralty, is another part of the statute of the fourth of his present majesty, very grievous to the trade and navigation of the Colonies, and oppressive to the subject, the pro-

perty of the trader being open to the invasion of every informer, and the means of justice so remote as to be scarcely attainable.

That the petitioners beg leave to express the warmest sentiments of gratitude, for the advantages intended by parliament, to America in general, in the opening free ports at the islands of Jamaica and Dominica; yet, at the same time, they cannot but lament, that it is their unhappiness to be in no condition to reap the benefits which, as it was imagined, would flow from so wise a policy; that the collecting great quantities of the produce of Martinico, Guadaloupe, &c. at the island of Dominica, will be the natural consequence of opening that port, and would prove of real importance to those Colonies, were they at liberty to bring them back, in return for their lumber and provisions; but, as they are now prohibited from taking any thing, except melasses, and, it is justly apprehended, there cannot be a sufficient quantity of that commodity to support any considerable trade, the petitioners think it evident, that no substantial advantage can be derived to them under such a restraint; that they are, at the same time, at a loss to discern the principle on which the prohibition is founded; for, since sugar may be imported direct from the foreign islands, it
seems

seems much more reasonable, to suffer it from a free port belonging to Great Britain; that the petitioners therefore humbly hope, that it will be thought equitable to adapt this trade to their circumstances, by granting them liberty to import into the Colonies all West India productions, in exchange for their commodities. That upon the whole, although, at the last session, the necessity of relieving the trade of those Colonies seems to have been universally admitted, and the tender regard of parliament for their happiness highly distinguished, nevertheless, experience has evinced, that the commercial regulations, then enacted, instead of remedying, have encreased the heavy burthen under which it already laboured.

* “ In this survey one thing must be
 “ taken notice of as peculiar to this country,
 “ which is, that as in the nature of its
 “ government, so in the very improvement
 “ of its trade and riches, it ought to be
 “ considered not only in its own proper
 “ interest, but likewise in its relation to

* Letter of Sir William Temple to Lord Essex, in July 22, 1673, concerning the state of Ireland, wherein the reader will see the survey taken of the trade of that country, at that time so apposite to the state of the trade of the Colonies at this season, it will be impossible not to apply it.

“ Eng-

“ England, to which it is subordinate, and
 “ upon whose weal in the main, that of this
 “ kingdom depends, and therefore a regard
 “ must be had to those points wherein the
 “ trade of Ireland comes to interfere with
 “ any main branches of the trade of Eng-
 “ land, in which case the encouragement
 “ of such trade ought to be either declined
 “ or moderated, and so give way to the
 “ interest of trade in England. Upon the
 “ health and vigour whereof the strength,
 “ riches and glory of his majesty’s crown
 “ seem chiefly to depend. But on the
 “ other side, *some such branches of trade*
 “ *ought not wholly to be suppressed,* but ra-
 “ ther so far admitted as may serve the
 “ general consumption of the kingdom, *lest*
 “ *by too great an importation of commodities,*
 “ *though out of England itself, the money of*
 “ *this kingdom happen to be drawn away in*
 “ *such a degree, as not to leave a stock suffi-*
 “ *cient for turning the trade at home.”*

If many of these regulations above pro-
 posed and submitted to consideration, cannot
 be admitted, while the Colonies are, by the
 laws of trade, considered as *mere plantations* :
 And if the improved commerce of the Colo-
 nies cannot any longer subsist as a branch of
 the commercial interest of Great Britain, if
 they are not admitted, Great Britain is re-
 duced

duced to the dangerous alternative of either giving up the subordination of the trade of its plantations, or of giving up its commerce, as it hath been extended and improved by its Colonies becoming commercial states; from which, otherwise inevitable danger, nothing but the general plan of union, as repeatedly above recommended, can preserve it.

The general principle of the laws of trade regulating the Colony trade, is, that the Colonies shall not, on one hand, be supplied with any thing but from a British market, nor export their produce any where but to a British market. In the application of this principle, the present laws direct, except in some special particulars, that the Colonies shall import all their supplies *from Britain*, and carry all their produce *to Britain*.

If now, instead of confining this market for the Colonies to Britain only, which is a partial and defective application of the general principle whereon the act of navigation is founded; this Colony trade was made, amidst other courses of trade, an occasion of establishing *British markets even in other countries*, the true use would be derived to the general interest from these advantageous circumstances, while in particular the Colonies and the mother country would be mutually

tually accommodated. In the first case, the general interest, perverted to partial purposes, becomes so far forth obstructed; in the second, it would be carried by the genuine spirit of it to its utmost extent.—If, under certain restrictions, securing also those duties which the produce of the Colonies, carried to market, ought to pay to the mother country, the Colonies were permitted to export their produce (such as are the basis or materials of any British manufacture excepted) directly to foreign countries, if so be they sold it to any *British house* established in such place, and were also permitted, if they bought their supplies from a *British house* established in those parts, to supply themselves with the natural fruits and produce of that country (all manufactures that any way interfere with the British manufactures excepted) paying there to some British officer, or upon their arrival in the Colonies, the same duties as they would have paid by purchasing the same commodities in England, every end proposed by the principal of the act of navigation would be answered; the exports of the Colonies would be encouraged; and *the British market* greatly extended.

The Colonies would not only trade to, and be supplied by, a *British market*, but
would

would become an occasion of establishing the British market in foreign countries. The same reasons of commerce, which, in a narrower view, became the grounds for establishing factories at Petersburgh, Riga, Hamborough, Lisbon, Cadiz, &c. would on a more general and extensive basis become the foundation for establishing and building up *these British markets* in every region to which our trade extended itself; for while it necessarily enlarged the special interest of the Colonies, it would enlarge it only at British markets, and to the final profit of the British general commerce. The profits of such market finally centering in Great Britain. If this maxim be not true, that the profits of the factories settled in foreign ports finally center in Great Britain, the measure of establishing such is false in policy; if the maxim be true, the permitting our Colony exports to go directly to the ports where such factories are established, is not contrary to the principle on which the act of navigation arose, but becomes coincident with, and aiding to it, in extending the British navigation and British markets, and securing the final profits thereof to Britain only.

If this method of reasoning be found not contrary to the principle of the act of navigation; if this measure at the same time
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that it encourages the trade of our Colonies, is found to do it in a way subservient to the general commerce of Great Britain, extending the British markets, and securing the final balance of profit to Britain only; if this spirit of administration, so far as government has a right to direct the course of trade, be adopted in this part of it, the great points which it has to secure, are first, that the Colony exports to, and the supplies purchased by them from those foreign ports, *be sold and bought at a British market only.*—The government has a right to extend its laws to these Colony traders, and to the factories established in foreign ports.—It can therefore, partly by such laws as it finds proper to enact, for the regulation of this factory trade, and partly by obliging these Colony traders to give bond before their departure from the Colonies, secure and confine all these transactions of that commerce, which is permitted at any such port, to a British market only, the laws that established these being a favour extended to the Colonies, and promoting the interest of these factories, would, as all laws of trade should do, execute themselves; and by giving the requisite powers to a consul or naval officer resident there, would be easily administered by such officer.

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The next point to be guarded, would be the securing those duties which this trade ought to pay to the government of Great-Britain: If the same duties were paid, or security for them taken in these foreign ports, as would be or should be paid by the Colony trade, if the traders were still obliged to come to Britain, every end would be answered to the government revenue, and these charges might be sufficiently secured, by obliging all these traders to sail under bond. The arrangements to be taken in such case ought to be that of adding to the office of consul, such powers as in the Colonies, before the establishment of special revenue officers there, were given to the naval officer, or to establish a naval officer. The consul or naval officer, in this branch of his administration, should be subordinate to the commissioners of the customs and the lords of the treasury. If the duties were collected by him, in the ports of his district, he should account and give security for the same; if bonds only, as security for the payment at such British or plantation ports, were given, he should keep the register of the same, and correspond with the commissioners of the customs, and such officers as they direct, as to the fulfilling, cancelling, or prosecuting to effect said bonds. These general arrangements, taken, together with such further

special regulations, as the experience of the commissioners of the customs should suggest, the revenue of the Colony and factory trade, under this mode of administration, would be well secured, cheerfully paid, and easily collected.

Under the administration of such measures, there does not appear any reason why all the produce of the British Colonies, which are not the basis of, or do not interfere with the British manufactures, might not be carried directly to a British market at a foreign port, —and why the carrying of rice to foreign ports might not be extended, under these laws, to all such foreign ports whereat a British factory is established.—Nor under this mode of commerce can any sufficient reason upon earth subsist, why the Colony traders should not be permitted to load at these ports, the fruits, wine, oil, pickles, the produce of that country, and also such raw unmanufactured produce, as would not interfere with the manufacture of Great Britain, instead of being obliged to come to Britain to buy or reload here, after the expence of an unnecessary voyage, those very commodities which they might have bought in a *British market*, at the port which they left. Why not any of these as well as salt, as well as wines from the Madeiras and western isles?

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In the same manner, by the same law, why may not our Colony traders be permitted to carry sugar, ginger, tobacco, rice, &c. to such ports in the rivers Weser and Elbe, in the Sound and in Russia, whereat a British factory is; or may be established? It can never be right policy to suffer labour in vain in a community: it is just so much lost to the community: and yet this coming round by England is labour in vain: If the subordination of the Colony-trade, and the duties arising thereon, can be by any other means secured, it is so much labour lost. The two points of a *British market*, and the revenue of the duties being secured, why may not these traders be permitted to load at these ports directly for the Colonies, hemp, yarn, and such coarse linens, as do no way interfere with the British manufactories? These measures taken, which would prove to be the true means of encouraging the Colony-trade, the best method to put a stop to the contraband trade carried on in this branch of business, and the true grounds whereon to establish the general commercial interests of Great Britain, government could not be too strict in enforcing the execution of the laws of trade, nor too severe in punishing the breach of them.—Wherever they found these traders endeavouring to carry from these ports to the Colonies raw silk, silks, velvets,

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foreign

foreign cloths, laces, iron, steel, arms, ammunition, sails or rigging, or any manufactures whatever, that interfere with the manufacture of Great Britain: whenever they found these traders endeavouring to carry from the Colonies to those ports, any dyeing-wood whatever, indigo, cotton, silk, bees or myrtle-wax, flax-seed, naval stores, furs, skins or peltry, hides, provision, grain, flour, bread or biscuit; whale-oil, blubber, bone, or any other fish-oil, or tallow, or candles, with an exception perhaps to myrtle and spermaceti candles, government could not be too strict and watchful to restrain them. Under proper regulations, the rum of the northern Colonies should be carried to Africa, and the sale of it to the French on the banks of Newfoundland encouraged, if such vent could be procured, as we should thereby reap at least some share even of the profit of the French fishery.

In the above revision of, and the proposed regulations for the Colony trade, as connected with that of Europe, it will be seen that all mention of East India goods is purposely omitted. I think a special measure might be contrived of supplying the Colonies with East-India goods, in a way that would effectually put to a stop to that contraband trade, by which it is complained they are at present

sent supplied, in a way by which one of the greatest marts in the world, with every attendant advantage to the British general commerce, and the special interest of the East-India trade, might be established.

If measures were at this juncture taken, between the government and the East-India company, so that an East-India ship might annually stop at some island in the West-Indies, the traders, not only of the West-Indies, but of North America, would supply themselves with every advantage at such mart, not only for their own proper consumption, but also for a trade of the greatest extent; and this mart, in return, would be to the East-India company, the collector of all the surplus silver of America, and perhaps even of some of the gold and ivory of Africa also. The extensive advantages of this measure cannot but be seen; nor would this any way interfere with that supply with which the East-India trade, by way of the Manilla's, furnishes the Spanish West-Indies, so far as our East-India company may be supposed to be concerned, but would, in other respects, open a better channel of trade between the East and West-Indies, which our company must command. The difficulties in the execution lie in securing to government the revenue that should arise

from the duties duly paid by this trade, and in securing the company against the perversion of this trade to the profit of their officers and servants.—

In the same manner, some revision of the state of the trade of the Colonies of the several maritime powers amongst each other will be necessary.—The laws and ordinances of these do in general prohibit all trade of foreign Colonies with their own;—and yet, without some such trade as supplies the Spanish provinces with British goods and provisions, as supplies the British Colonies with Spanish silver, as supplies the French islands with British lumber, fish, provisions, horses, and live stock, as supplies the British Colonies with French mellasses, the trade and culture of these Colonies would be greatly obstructed and impaired; and yet notwithstanding this fact, our laws of trade, by an impracticable duty, extend to the prohibiting the importation of French mellasses into our Colonies.—If the government, under this law, could prevent effectually this importation, not only into the northern Colonies, *but into the British isles also*, the reward of that pains would be the destruction of a beneficial branch of trade, perhaps of driving the British American distillery into
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the French, Dutch, or Danish isles, or of forcing the French, contrary to their own false policy, into a profitable manufacture of that produce which they now sell as refuse materials. I need not point out here the very essential change that this would make in the Colony trade.—On the contrary, it is the duty of government to permit, nay even to encourage, under proper regulations, these branches of trade; in the first place, in order to extract out of the foreign Colonies, to the benefit of the British commerce, as much as possible the profits of these Colonies, and which is more material, in order to create a necessary dependence in the trade and culture of those Colonies for their supplies on the British commerce.—When it is remembered that the law, which lays a duty equal to a prohibition, on the importation of French mellasses in the British Colonies, was obtained at the solicitation of the British isles, it will be seen, that the obtaining this law is not so much meant to prohibit totally the introduction of French mellasses into the British trade, as to determine a struggle between the West-India and North American traders, who should have the profits of it. And thus, from the predominant interest of these partial views, has government been led to embarrass the general courses of its trade.—But as the West

India traders see that this law has not, never had, and never will have the effect proposed, they will be better reconciled to its ceasing; and as government must now, after the experiment, see the false policy of it, * there is no doubt but that it will cease, so far as to reduce the duty to a moderate and practicable charge, such as will be paid, and such as will raise to the crown a very considerable revenue thus paid.

I speak not this by guess; but, from a comparison of the quantity of sugars and mellasses brought to account in the custom-house books of the *King's revenue*, with the quantity of the same article, in the same ports, brought to account in the impost-books of the *Colony revenue*, for six years together, could, with some precision, mark the extent of it. I own I did always apprehend that two-pence *per* gallon on foreign mellasses imported into any British plantation, and so in proportion of sugars, was the best rate at which to fix this duty; that being thus *moderate*, it might be easier and with less alarm and opposition collected, and might therefore the sooner introduce the practice of fair trade, and the sooner become

* This measure hath, since the writing of the above, taken place by 6 Geo. 3. c. 52.

an *effective* revenue: But when I see a groundless clamour raised, which represents the rate fixed by the late revenue-act as destructive of the American distillery, as ruinous to the American fishery, as a prohibition of the returns made from the foreign islands for the North American fish; I must own that I have never seen any fact stated, or calculation fairly made on which such assertions found themselves.

The French isles, since the surrender of Canada and Louisiana, must depend entirely for their supplies of lumber, staves, heads, provisions, live stock, horses, &c. on the British Colonies, immediately exported from thence to those isles, unless by some means supplied from markets created at New Orleans and the island of St. Peter, as from another Isle of Man; it will therefore be the duty of government to keep a watchful eye to the formation and extent of these markets;—so at least, if they be permitted, as to have the command of them, and so as to prevent their being, to the French traders, the means of supplying the Spanish markets also, as well as their own.

Since the writing of what the paragraph above contains, very proper regulations have been by the late American revenue-act provided;

vided; and if proportionate care be taken in the execution of it, this danger is for the present guarded against.

Some revision also will be necessary in the laws about naval stores, especially that respecting the masts. The present law, under an idea of preserving the White Pine or mast trees, directs, That no White Pines shall be cut or felled within the limits of any township, if not actually private property.— This part of the law arises from a mistaken apprehension of a township, there being no lands within such but what are private property.—*2dly*, That no pines out of a township, of the dimensions of 24 inches and upwards, diameter, at the height of 20 inches from the ground, shall be felled.— This part of the law is *felo de se*.— Those who find their profits in cutting down these trees for logs or making shingles, &c. or who know the embarrassments which would arise to their property, if they should ever apply for a grant of these lands, by letting such Pine-trees, the property of the crown, grow there, never (if they have not other means to evade this law) will permit these Pines to come to *this dimension* which makes them royal property. The false policy of this law, and the defects in the establishment of an office of surveyor-general of his Majesty's

Majesty's woods, will soon, if not obviated, be felt in the scarcity and price of masts, which will be the effect of it. The necessity of their going a great distance from the rivers for the masts has already taken effect, and the case of there being none within any practicable distance will soon follow. The navy-office finding that their mast-ships do come regularly hitherto to England, cannot entertain any fear of such want, and it will be the interest of others to suppress and contradict this fact; yet it is a fact, and will be soon known in its effects. On the contrary, if it is considered how disproportionate a value the price of the Pine-tree growing bears to the price of the mast when brought in the middle of winter, over the snow, with 70 or 80 yoke of oxen to the water-side; if, instead of aiming to make these trees, thus growing, *royal exclusive property*, the crown was not only to permit a free masting in lands not granted, and to make the mast-trees of all dimensions, *private property* on lands actually granted, but also (as it is done in other cases of naval stores) to give a bounty besides the price, to the person who should bring down any such masts to the water-side, it would have an immediate effect in supplying the crown with masts at a cheaper rate, and in the preservation of

of these trees, thus become a branch of trade.

I would wish here also to recommend the giving some advantages and encouragement to the importation of American timber into Great Britain.

I have not gone into the thorough examination of these subjects above-mentioned, nor have I pointed out, in all their consequences, the effects that this or that state of them would have. I have only pointed them out as worthy the attention of government; and, I am sure, whenever government takes them under consideration, they will be better understood than any explanation of mine can make them.

Were some such arrangements taken for a revision and further establishment of the laws of trade, upon the principle of extending the British general commerce, by encouraging the trade of the Colonies, in subordination to, and in coincidence therewith, the trade of the Colonies would be administered by that true spirit from whence it rose, and by which it acts; and the true application of the benefits which arise to a mother country from its Colonies would be made. Under this spirit of administration, the government,

as I said above, could not be too watchful to carry its laws of trade into effectual execution.—But under the present state of those laws, and that trade, there is great danger that any severity of execution, which should prove effectual in the cases of the importation into the Colonies of foreign European and East-India goods, might force the Americans to trade for their imports, upon terms, on which the trade could not support itself, and therefore become in the event a means to bring on the necessity of these Americans manufacturing for themselves. Nothing does at present, with that active and acute people, prevent their going into manufactures, except the proportionate dearness of labour, as referred to the terms on which they can import; but encrease the price of their imports to a certain degree, let the extent of their settlements, either by policy from home or invasion of Indians abroad, be confined, and let their foreign trade and navigation be, in some measure suppressed;—their paper-currency limited within too narrow bounds, and the exclusion of that trade which hath usually supplied them with silver-money too severely insisted upon;—this proportion of the price of labour will much sooner cease to be an object of objection to manufacturing there, than is commonly apprehended. The winters in that
climate

climate are long and severe ; during which season no labour can be done without doors. That application therefore of their servants labour, to manufactures for home consumption, which under any other circumstances would be too dear for the product created by it, becomes, under these circumstances, all clear gains. And if the Colonists cannot on one hand purchase foreign manufactures at any reasonable price, or have not money to purchase with, and there are, on the other, many hands idle which used to be employed in navigation, and all these, as well as the husbandmen, want employment ; these circumstances will soon overbalance the difference of the rate of labour in Europe and in America. And if the Colonies, under any future state of administration, which they see unequal to the management of their affairs, *once come to feel their own strength in this way*, their independence on government, at least on the administration of government, will not be an event so remote as our leaders may think, which yet nothing but such false policy can bring on. For, on the contrary, put their governments and laws on a true and constitutional basis, regulate their money, their revenue, and their trade, and do not check their settlements, they must ever depend on the
the

the trade of the mother country for their supplies, they will never establish manufactures, their hands being elsewhere employed, and the merchants being always able to import such on * terms that must ruin the manufacturer. Unable to subsist without, or to unite against the mother country, they must always remain subordinate to it, in all the transactions of their commerce, in all the operation of their laws, in every act of their government:—The several Colonies, no longer considered as demesnes of the crown, mere appendages to the realm, will thus become united therein, members and parts of

* This is a fact too well known and understood to need any particular proof—but if need were, the writer of these papers could demonstrate this from the prices of wool, hemp, and flax, and the labour of carding, dressing, spinning, weaving, &c. in North America, compared with the prices of the same articles of produce and labour in Britain. It is therefore an idle vaunt in the Americans, when they talk of setting up manufactures *for trade* ; but it would be equally injudicious in government here to force any measure that may render the manufacturing for *home consumption* an object of prudence, or even of pique in the Americans. And yet after all, should any thing of this sort extend itself to a degree that interfered with the exports of Great Britain to the Colonies—the same duties of an excise which lie upon the manufactures of Great Britain, levied upon those of America, would soon restore the balance. This consideration, one might imagine, would induce those who are prudent in America, to advise the rest to moderation in their opposition.

the

(318)

the realm, as essential parts of a one organized whole, *the commercial dominion of Great Britain.* THE TAKING LEADING MEASURES TO THE FORMING OF WHICH, OUGHT, AT THIS JUNCTURE, TO BE THE GREAT OBJECT OF GOVERNMENT.

The END.

A P P E N D I X.

S E C T I O N I.

ALTHOUGH the following papers, at the time in which they were written, had reference to the state of the service as opposed to the French measures and power in America: Although they are parts of another work intended to be published at some future time, yet they are here annexed to *the Administration of the Colonies*, as they treat of matters very worthy present consideration; and as in general they contain ideas of police, which respect the possession, preservation, and improvement of those acquisitions which our conquests have put into our hands,—and the forming them into some system of Empire that shall be the Empire of Great Britain.

The first paper, which had for its object the forming of the British possessions, together with those of our allies the Indians, into a system of barrier against the French, was written at a time when the subject was entirely new, scarce ever brought forward to consideration here in England, and when authentic accounts of the true state of the country as possessed by the English and French, were with great difficulty, if at all, to
be

be obtained; and I may venture to say, utterly unknown to our military.

The latter of these papers, was written after it became necessary to change the object of the war; and the only thing which I wish to say of the ideas that it contained, is, that they were literally justified by the events.

A MEMORIAL:

STATING the NATURE of the SERVICE in NORTH AMERICA, and proposing a GENERAL PLAN of OPERATIONS, as founded thereon.

Drawn up by Order of, and presented to, his Royal Highness the Duke of Cumberland, 1756. By T. POWNALL.

HIS Majesty has now united the service in North America into one power of action, and under one direction, by appointing a commander in chief over all North America, with powers to direct, and with force to carry on this service as a one whole. The next and necessary point therefore is, that there should be some *one general plan of operations* fixed, which may be carried on, not only by the general forces employed in the general and military part of this plan, but by every particular province and colony, within its own private councils, and own private

private operations, coincident with the whole. When such plan is fixed, every sum of money that is raised for this service, will be applied to what shall be of real service and permanent use; and every the most minute operation that is undertaken, will become as part of such plan, *Ἐργον εἰς αἰὲν*; ——— and every (the most otherwise insignificant) measure would become of more importance, and more service, than twenty the most expensive and bustling operations, that arise from momentary and partial starts of whim, vanity, or interest: There could not even a logg house be built, nor scarce a piquet stuck down in any part of the country, but what would be a necessary measure, and whose use (however trifling the thing in itself) would extend to the grand service of the whole: There would not be a pound, scarce a penny raised, but would have its share in this grand service. On the contrary, while private persons, or particular independent bodies of people, have consulted only the momentary partial starts of whim, vanity, party, or interest, under the influence of such motives, without any general scheme to the defence of the country, the *taking possession* of it, or the command of it, without any reference to any general idea, forts have been built up and down the country, that could never have been of use, have never been used, have never been supported, have been left to go to ruin, have been abandoned to the enemy; or, if they have been kept up at all, have been a private stancing job to all concerned in them: While thus large sums of money have been squandered away to no use, or bad ones; while thus fruitless detached measures, that have

Y been

been of no use, but a perversion of, and incumbrance to the general service, and interfering amongst each other, have been pursued by vague, random fits and starts, the public service has not only been ruined, but the people have lost all opinion and confidence in military operations, have been discouraged and alienated from engaging in any active measures, and always suspicious, that whatever sums they give to such, are either thrown away, or put into the private pocket of some job. On the contrary, were there some one general plan of operations formed, upon the practicability and really intended execution of which they might confide, the assemblies might be persuaded, the people would be willing, and I verily believe, would be persuaded to give amply and cheerfully: So that it is not only necessary to the gaining the end proposed, but also absolutely necessary to the gaining the means, that some such general plan should be fixed.

In order to which, the following paper proposes to consider,

1st, The site of the country :

2^{dly}, The interests of the possessions and settlements :

As the basis of

3^{dly}, The state of the service in America.

It becomes necessary to a right understanding of these proposed objects, to recur and go up to the first principles on which they were founded,

not only because the subject is *new*, but because it has been misconceived, and misrepresented.

1st, Prior to any observations on the settlers and settlements, it will be necessary to take some notice of the peculiar state and site of the countries, in which they are settled: For it is the site and circumstances (I mean those that are unchangeable) of a country, which give the characteristic form to the state and nature of the people who inhabit it.

The consideration of the continent of America may be properly divided into two parts, from the two very different and distinct ideas that the face of the country presents, but more especially from the two distinct effects which must necessarily, and have actually arisen, from the two very different sorts of circumstances to be found in each tract of country.

All the continent of North America, as far as known to the Europeans, is to the westward of the endless mountains, a high level plane: All to the south-east of these mountains, slopes away south-easterly down to the Atlantic Ocean. By a level plane, I must not be understood, as if I thought there were no hills, or vallies, or mountains in it; but that the plane of a section, parallel to the main face of the country, would be nearly an horizontal plane, as the plane of a like section of this other part would be inclined to the horizon, with a large slope to the Atlantic Ocean: The line that divides these two tracts, that is the south east edge of these planes, or the highest

part of this slope, may in general be said to run from Onondaga, along the westernmost Alleghani ridge of the endless mountains, to Apalatche in the gulph of Mexico.

2dly, In considering first the main continent, this high plain, it may be observed, with very few exceptions in comparison to the whole, that the multitude of waters found in it is properly speaking but of two masses: The one composed of the waters of the lakes and their suite, which disembogue by the river St. Lawrence; the other that multitude of waters which all lead into the Mississippi, and from thence to the ocean; the former into the gulph of St. Lawrence, the latter into the gulph of Mexico.

There are in all the waters of Mississippi, at least as far as we know, but two falls; the one at a place called by the French St. Antoine, high up on the west or main branch of Mississippi; the other on the east branch called Ohio. Except these, and the temporary rapidity arising from the freshes of spring, and the rainy seasons; all the waters of the Mississippi run to the ocean, with a still, easy and gentle current.

As to all the waters of the five great lakes, and the many large rivers that empty themselves into them, the waters of the great Otawawa river, the waters of the lake Champlain, of Trois Rivieres, and the many others that run into the river St. Lawrence above Quebec, they may all be considered in one mass, as a *stagnation* or lake of a wilderness of waters, spreading over the
country

country by an infinite number and variety of branchings, bays, straits, &c. for although at particular places of their communications, and at the mouths of their streams, they seem to pour out such an immense ocean of waters, yet when they are all collected and assembled together, as at a general rendezvous where they all disembogue themselves into the river St. Lawrence, the whole embouchure of this multitude of waters is not larger than the * Seine at Paris; the waters of each respective mass not only the lesser streams, but the main general body of each going through this continent in every course and direction, have, by their approach to each other, by their interlocking with each other, by their communication to every quarter and in every direction, an alliance and unity, and form one mass, a one whole.

Let any one raise in his mind the idea of some low country incapable of being travelled, except on the roads, causeways, dykes, &c. that have been made through it, and that these roads have throughout the whole country a communication which connects and forms them into a one system of design, a one whole: Such person will readily conceive how easily and with what few numbers a General may take possession and hold the com-

* About 12 French leagues above Quebec, over against a place called la Loubiniere, the river St. Lawrence appears to be of a very considerable breadth; but when the tide, which runs up much higher than that place, has at its ebb entirely retired, that breadth which one would have judged to have been that of the St. Lawrence river, remains all dry, except a small channel in the middle, which does not appear to be much larger than the Seine at Paris, nor the waters of it that pass there to have a greater current.

mand of this country; and when once possessed how easily he may defend it, by fortifying with redoubts and such works, the strong holds and passes in it, and at what an almost insurmountable disadvantage any one who aims to recover it must act, even with twenty times the numbers. If these roads and lines have thus a communication forming a one whole, they are the foundation or basis of a command throughout the whole country; and whoever becomes possessed of them has the command of that country.

Now let any one behold and consider the continent of America, as it really is, a wilderness of woods and mountains, incapable of land carriage in its present natural unwrought form, and not even to be travelled on foot, unless by the good will of the inhabitants, as such travelling in those woods and mountains is perpetually and unavoidably liable to ambuscades, and to the having the communication from the one part to the other cut off. Let such person also know, that the waters for these reasons have ever been the only roads that the inhabitants use, and until art and force make others, are the only roads that any body of people can in general take. Compare this state of country with what is above described, and the same conclusion, *mutatis mutandis*, will be found to be derived from it.

Seeing this, as fact and experience shews it to be, let such person then recollect what is said above of the communication and alliance amongst the several waters of this continent—of the unity, one man's, and one whole, which they form;—
he

he will see in a strong light how the watry element claims and holds dominion over this extent of land; that the great lakes which lie upon its bosom on one hand, and the great river Mississippi and the multitude of waters which run into it, form there a communication,—an alliance or dominion of the watry element, that commands throughout the whole; that these great lakes appear to be *the throne, the centre of a dominion*, whose influence, by an infinite number of rivers, creeks and streams, extends itself through all and every part of the continent, supported by the communication of, and alliance with, the waters of Mississippi.

If we give attention to the nature of this country, and the one united command and dominion which the waters hold throughout it, we shall not be surprized to find the French (though so few in number) in possession of a power which commands this country; nor on the other hand, when we come to consider the nature of this eastern part of America, on which the English are settled, if we give any degree of attention to the facts, shall we be surprized to find them, though so numerous, to have so little and languid a power of command even within the country where they are actually settled. I say a very strong reason for this fact arises out of the different nature of the country, prior to any consideration of the difference arising from the nature of their government, and their method of raising possession of this country.

This country, by a communication of waters which are extended throughout, and by an alliance of all these into a one whole, is capable of being and is naturally a foundation of a one system of command: Accordingly, such a system would, and has actually taken root in it under the French. Their various *possessions* throughout this country have an order, a connection and communication, an unity, a system, forming fast into a one government, as will be seen by and by: Whereas the English settlements have naturally, neither order, connection, communication, unity, nor system. The waters of the tract on which the English are settled, are a number of rivers and bays, unconnected with, and independent of each other, either in interest or natural communication within land. The vague dissipated random settlements therefore, scattered up and down these, will have no more communication or connection amongst themselves, than there is amongst the various independent streams they are settled upon.— This country, instead of being united and strengthened by the alliance of the waters which run in it, is divided by these several various streams, detached from, and independent of each other, into many separate detached tracts, that do naturally and have actually become the foundation of as many separate and independent interests.

As far as the communion of the waters of any river, or the communion there may be between any two rivers extends, so far extended will arise a communication of system, of interest and command; the settlements therefore on this tract of country, would be naturally, as they are actually,
divided

divided into numbers of little weak, unconnected, independent governments—Were I to point out the natural division of these tracts and interests, it would point out a new division of the governments of the colonies, which is not the purport of this paper.—

The consideration of this country, so far as it is connected with, or has any effect upon the interests and politicks of the English settlements, presents itself to view divided in two ideas. *1st*, The country between the sea and the mountains: *2^{dly}*, The mountains themselves. The first part is almost throughout the whole capable of culture, and is entirely settled: The second, a wilderness, in which is found here and there in small portions, in comparison of the whole, solitary detached spots of ground fit for settlements: the rest is nothing but cover for vermine and rapine, a den for wild beasts, and the more wild savages who wander in it.

Thus far of the site of the country, as it becomes the foundation of a natural difference between the English and French possessions in America. The next point that presents itself to consideration is, the manner in which the English and French have taken possession of, and settled in this country: And,

1st, Of the French.

The French in their first attempts to settle themselves in these parts, endeavoured to penetrate by force of arms, to fix their possessions by
military

military expeditions, till through the perpetuity and constant abortion of these measures, and the certain disappointment and sure loss that attended them, they through a kind of despair gave over all thoughts of such attempts.

Whether the dear-bought experience that they learnt from hence, or whether despair leaving their colony to make its own way, or whether rather, the right good sense of Mr. Frontenac and Mr. Calliers led them to it, is neither easy nor material to determine; but so it was, they fell afterwards into that only path, in which the real spirit and nature of the service led.

The native inhabitants (the Indians) of this country are all hunters; all the laws of nations they know or acknowledge, are the laws of sporting, and the chief idea which they have of landed possessions, is that of a *bunt*. The French settlers of Canada universally commenced hunters, and so insinuated themselves into a connection with these natives.

While the French kept themselves thus allied with the Indians as hunters, and communicated with them in, and strictly maintained all the laws and rights of sporting, the Indians did easily and readily admit them to a local landed possession; a grant which rightly acquired and applied, they are always ready to make, as none of the rights or interests of their nation are hurt by it: While on the contrary, they experience and receive great use, benefit, and profit, from the commerce which the Europeans therein establish with them.

Whereas

Whereas on the contrary, the English with an insatiable thirst after landed possessions, have gotten deeds and other fraudulent pretences grounded on the abuse of treaties, and by these deeds claim possession even to the exclusion of the Indians, not only from many parts of their hunting grounds, (which with them is a right of great consequence) but even from their house and home, as by particular instances from one end of the continent to the other might be made appear. Upon these pretences they have driven the Indians off their lands.—The Indians unable to bear it any longer, told Sir William Johnson, *that they believed soon they should not be able to hunt a bear into a hole in a tree, but some Englishman would claim a right to the property of it as being his tree:*—And whatever the great proprietors, patentees, and land jobbers, may affirm or affect to prove, or however angry they may be with those who declare this truth; this is the *sole ground* of the loss and alienation of the Indians from the English interest, and this is the ground the French work upon.—On the contrary, the French possessions interfere not with the Indians rights, but aid and assist their interest, and become a means of their support.—This will more clearly and better appear, by a more minute and particular attention to the French measures in these matters.

1st, No Canadian is suffered to trade with the Indians, but by licence from the government, and under such regulations as that licence ordains. The main police of which is this. The government divides the Indian countries into so many
hunts,

hunts, according as they are divided by the Indians themselves. To these several hunts there are licences respectively adapted, with regulations respecting the spirit of the nation whose hunt it is; respecting the commerce and interest of that nation; respecting the nature of that hunt.

The Canadian having such licence, ought not to trade and hunt within the limits of such hunt, but according to the above regulations; and he is hereby absolutely excluded under severe penalties to trade or hunt beyond these limits, on any account whatever.

It were needless to point out the many good and beneficial effects arising from this police, which gave thus a right attention to the interest of the Indians, which observed the true spirit of the alliance in putting the trade upon a fair foundation, and which maintained all the rights and laws of the hunt, that the Indians most indispensably exact.

But the consequence of the most important service which arises out of this police, is a regular, definite, precise, assured knowledge of the country.

A man whose interest and commerce are circumscribed within a certain department, will pry into, and scrutinize every hole and corner of that district: When such a hunt is by these means as full of these *coureurs des bois*, as the commerce of it will bear, whoever applies for a licence must betake himself to some new tract or
 hunt,

hunt, by which again begins an opening to new discoveries and fresh acquisitions.

When the French have by these means established a hunt, a commerce, alliance and influence amongst the Indians of that tract, and have by these means acquired a knowledge of all the waters, passes, portages, and posts, that may hold the command of that country, in short, *a military knowledge* of the ground, then, and not before, *they ask and obtain leave* of the Indians to strengthen their trading house, to make it a fort, to put a garrison in it.

In this manner, by becoming hunters and creating alliances with the Indians as brother-sportsmen, by founding that alliance upon, and maintaining it (according to the true spirit of the Indian law of nations) in a right communication and exercise of the true interest of the hunt, they have insinuated themselves into an influence over the Indians, have been admitted into a landed possession, and by locating and fixing those possessions in alliance with, and by the friendly guidance of the waters, whose influence extends throughout the whole, they are become possessed of a real interest in, and real command over the country. They have thus throughout the country sixty or seventy forts, and almost as many settlements, which take the lead in the command of the country, *not even one of which forts, without the above true spirit of policy, could they support, with all the expence and force of Canada*: Not all the power of France could; 'tis the Indian interest alone, that does maintain these posts.

Having

Having thus got possession in any certain tract, and having one principal fort, they get leave to build other trading houses and entrepôts, at length to strengthen such, and in fine to take possession of more and more advanced posts, and to fortify and garrison them, as little subordinate forts under the command of the principal one.

Though these principal forts have subordinate forts dependent on them, they are yet independent of each other, and only under the command of the governor general ; there is a routine of duty settled for these, and the officers and commanders are removed to better and better commands : What the particulars of this are, and of the distribution of the troops, I have not yet learned as to Canada ; but in general the present establishment for this service is three thousand men, of which there are generally two thousand three or four hundred effective.

I have not been able to get an exact list of the forts in Canada, but the following is sufficient to sketch out the manner in which they conduct this service.

It will be necessary first to describe the line which now divides Canada and Louisiana in the Illinois country. It begins from the Oubasch at the mouth of Vermillon river, thence to the post called Le Rocher on the river Præorias, and from thence to the peninsula formed at the confluence of Rocky river and the Mississippi.

Forts

Forts in CANADA:

- ST. FREDERICK, { St. John.
- { Carillon or Ticonderôga.
- FRONTENAC, { L' Presentation.
- { Les Coudres.
- { Quintez.
- NIAGARA, { Toronto.
- { One other.

MISSILIMAKINAC, and its Dependencies.

- DU QUESNE, { Presq' Isle.
- { Riviere au Bœuf.
- { One other.

- LE DETROIT, Two { 'Twas proposed to the Court
- { in the year 1752, to erect
- { this into a Lieutenancy de
- { Roy.

The Post MIAMIS
and SIOUX.

- NIPIGON, { Two or three.
- { One on the River Michi-
- { pocoton.
- { One other on the Long
- { River.

ST. JOSEPH, and one other

LE PETIT PARIS.

ALIBI.

SAGUENAY.

ST. JOHNS, in Nova-Scotia.

In all about sixty.

Most of these forts have fine settlements round
them, and they do entirely support themselves;
it

it being usual for both officers and men to defer receiving their pay till the garrison is relieved, which is generally in six years; and scarce any thing is sent to these garrisons, but dry goods and ammunition.

There is a fine settlement at Detroit, of near two hundred families; a better still at St. Joseph, of above two hundred; a fine one at St. Antoine, many fine ones about Petit Paris. But the French government does not encourage these, and has, by a positive ordonnance, absolutely forbid any one to make a settlement without special licence; which measure they found necessary to take, in order to restrain the Canadians from totally abandoning Canada.

The establishments, posts, and settlements of Louisiana, are as follow:

Thirty seven companies of fifty men each, and two Swisse companies of seventy five men each.

1. The garrison of New Orleans:

French	- 900	} - - - - -	975
Swisse	- - 75		

Out of which are garrisoned the outposts of Bâliste, and other small posts.

Detour Anglois: The garrison of this consists of four companies, which have their tour of duty with the Mobile, Illinois, &c.
Mobile,

	Brought over	975
Mobile, eight French companies, and one		
Swisse - - - - -		475

“ It is necessary to fix this number here, on account of the proximity of Panfcola, on one part, and of the English on the other; as also to influence the Indians, as there are at our meetings and treaties, held here annually with the Indians, sometimes 2, sometimes 3,000 Indians present *.”

Tombechbé, } One company each, a detachment from the garrison of Mobile.
 Alibamous, }

Four companies of this garrison relieved every year.

The Illinois, six companies	=	=	300
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The posts were, in 1752, {

- Caskafias.
- Fort de Chartres.
- Village de St. Philip.
- Praire de Rocher.
- Cohôkias.
- Village de St. Jeune
- Veuve.

The Akansas, a les principal post, one company	-	-	-	50
The Natches, one company	-	-	-	50

1850

* Mr. Vaudreuil to the court.
 Z

The

	Brought over	1850
The Nachitoches, one company	- -	50
for the present on account of their not being able to prevent desertions to the Adages, a Spanish post within 7 leagues of it. They propose, when they shall be able to settle a cartel with the Spanish governor, and his Majesty approves of it, to fix two companies there, it being a frontier post.		
The Point Coupe, one company	- -	50
The German Settlement, one company	-	50
		<hr/>
Total		2,000

The settlements of Louisiana in general, produce Indigo equal to the Guatimalo, which admit three cuttings or crops annually; rice in great abundance, and cotton, but they find great difficulty in cleansing it from the seeds that accompany its growth here; tobacco, pitch, tar; they have a trade to their own islands with flour, peas, beans, salted or corned wild beef, and pork, hams of hogs and bears, tallow, grease, oil, hides, lumber, planks; they have also myrtle wax, which they export to France; they do also, in small quantities, manufacture the buffalo wool. From the abundance and natural growth of mulberry trees, they have their thoughts turned to silk; they have iron, lead, copper, and coals in abundance; besides the skins and coarse furs, arising from the Indian trade and hunt; they had, so long ago as in the year 1744, several vessels at their port, which came from Florida and Havanna, and the bay of Campeachy, to trade for boards, lumber, pitch,

7 dry

dry goods, and live stock, to the value of 150,000 pieces of eight. They had a settled treaty of commerce with the Royal Company of Havanna, by the terms of which, the French were to deliver them at Louisiana, pitch at two piastres a barrel, tar at three piastres a barrel, boards at two reals each. Their settlements towards the mouth of Mississippi, are almost deserted and ruined, the settlers not being able to support the expence of banking against the inundations of the sea and land floods. Mr. Vaudreuil says, in a letter to the court, September 28, 1752, he thinks it would be much better, to defer for some years attempting settlements here, till the ground be more raised and elevated by the accretion of soil, as it has been three feet in fifteen years last past.

I mention nothing here of the posts of New Orleans, Detour Anglois, and Balise, nor of Mobile; because, being marine posts, the consideration of them does not come within the scope of this paper. I will observe, that they require our particular attention: They are become the ports to which all the men and stores, with which the country of the Ohio is furnished, are sent annually and constantly; as from New Orleans to this country, the way is much shorter than through Canada, the distance being at the most, where they are obliged at low water to follow all the windings of the river, not more than 340 French leagues; but at the usual times that they send their convoys, not more than 300, and to which they can go up with decked sloops, nine or ten months in the year. The trade comes down from the Illinois, about the latter end of

1850
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2,000

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which
pay of
pitch,
dry

December, and goes up towards the latter end of January, or the beginning of February.

I shall describe the post of Tombechbè, from Mr. Vaudreuil's letters.

- April 20, 1751. This post restrains the Alibamòus, Talapouches, Abekas, and Cowétas, preserves the communication between the waters of Mobile, Alibamous river and the Mississippi; 'tis necessary for us in order to keep up amongst the Chaftaws, the spirit of warring against the Chickasaws; tis also necessary as an entrepôt in our expeditions against the Chickasaws and English. From hence we can go within seven or eight leagues of the villages of the Chickasaws with periaugoes, by the river Tombechbè, over which, seven or eight leagues of land carriage, we can easily go by land, and carry cohorns and light field pieces: from hence also it is, that we must send out our parties against the Carolinians; yet this fort being a heavy expence, and with great difficulty supplied, and being so situated as to be of no use to hinder the English from going to the Chaftaws, when that nation is inclined to receive them, as they may conduct their convoys a little above, or a little below the fort, without our being able to oppose them. This being the case, were the Chaftaws entirely secured in our interest, were the Chickasaws destroyed, and had the English lost and given up all hopes of strengthening themselves in that quarter, as we hope to effect, I then think it would be no longer necessary to keep up this post; yet till this be effected, it must be kept up, and more especially as by suppressing
- January 6, 1746.
- October 28, 1746.
- March 6, 1749.
- September 21, 1751.
- January 12, 1754.

pressing it now, the Chactaws would think themselves abandoned. This post, as well as Alibamous, should always be victualled for a year, left by any revolution in Indian affairs, the road to it should be obstructed.

May 30,
1751.

As to the posts in the Illinois country, I am not able to describe them particularly; but what appears to be of more consequence, I collect from Mr. Vaudreuil's letters, (from 1743, to 1752) the general idea upon which the fortifying and securing that country is founded.

The first fort of their plan, in fortifying the Illinois country, was on the peninsula, in lat. 41. 30. This was a check upon, and barrier against the several nations of Sioux (not then in confederacy with them.) The next post in this plan was on the river Dorias, (so called after the junction of the Illinois river and Theakiki) which would be of more especial use, if situated on the north of the lake on that river, whence the roads divide, that lead to Maffilimakinac and St. Joseph: This he describes as the key to the Illinois country from Canada.

July 18,
1743.
August 30,
1744.

The next is the garrisoning and fortifying the country, from the mouth of Missouri to Kaskasias, where there are five posts. Mr. Vaudreuil thinks that Kaskasias is the principal, as it is the pass and inlet of the convoys of Louisiana, as also of those of Canada, and of the traders and hunters of the post Detroit, and that of the greatest part of the savage nations.

May 15,
1751.

There is also at this post, a river where the sloops which come from New Orleans, may be safely laid up in winter.

Mr. M'Carty, who was on the spot, thinks the environs of Chartres a far better situation to place this post in, provided there were more inhabitants. He visited fort Chartres, found it very good, only wanting a few repairs, and thinks it ought to be kept up.

The next post (I take them in order of place, not of time) which comes into this plan, is on the Ohio, over against the mouth of the Cherokee river: This, he says, would be the key of the colony of Louisiana, would be a sufficient barrier against the English, and restrain their incroachments, and would obstruct their designs in alienating the Indians of the Ohio; it would restrain the incursions of the Cherokees, on the river Ouabash, and river Mississippi; it would also check the Chichasaws, and would by these means secure the navigation of the Mississippi, and the communication with our posts. He here expresses the greatest uneasiness, (as the French court did not care to engage in the measure at that time) lest the English should build a fort here, in which case, says he, we must give up all communication with the Illinois; for the English would become masters of all the navigation of that country.

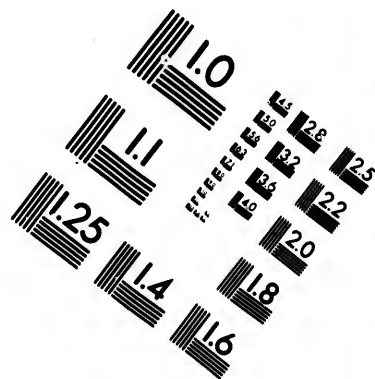
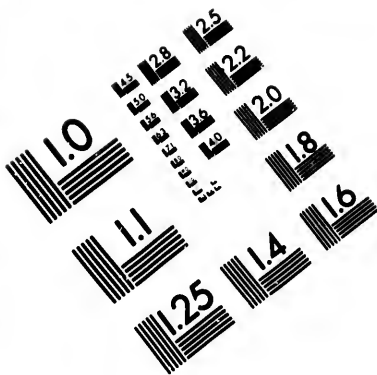
Mr. Jonquiere proposes another fort at the mouth of Rocky river, (this is in the government

ment of Canada) which, he says, would secure the tranquillity of the south of Canada. This, says Mr. Vaudreuil, together with the post of the Illinois, would restrain and become a barrier against the English, and cover all our Indian allies to the west; from our enemies, the English, the Cherokees, Catawbas, and others.

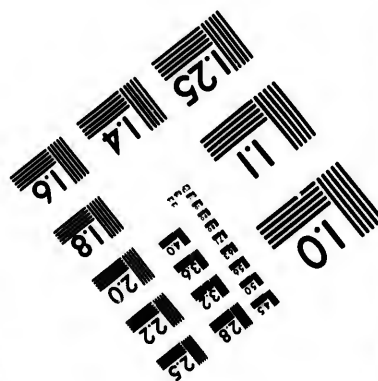
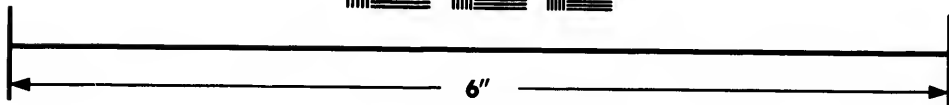
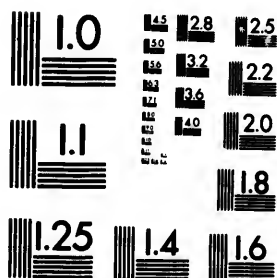
By these posts above, and the posts of the Miamis, this whole country is secured and fortified. This country, says Charlevoix, (in 1721) will become the granary of Louisiana, and in 1746 we find it actually becoming so: for in that year it sent down to New Orleans fifty ton of flour; in 1747, we find it well furnished with provisions, and having fine crops; and in a letter of Mr. Vaudreuil's 1748, we have an account of its produce and exports—flour, corn, bacon, hams, both of bears and hogs, corned pork and wild beef, myrtle wax, cotton, tallow, leather, tobacco, lead, copper, some small quantity of buffalo wool, venison, poultry, bears-grease, oil, skins, and some coarse furs; and we find a regular communication settled with New Orleans, by convoys which come down annually the latter end of December, and return at latest by the middle of February.

Thus the French do not only *settle* the country, but also *take possession of it*; and by the form, site, and police of such possessions, (led on and established by the guidance of, and in alliance with the waters,) a natural foundation of a one command, have they acquired, and become possessed of *the command of this country*.





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By these means, I repeat it, have they created an alliance, an interest with all the Indians on the continent; by these means have they acquired an influence, a command throughout the country: They know too well the spirit of Indian politicks, to affect a superiority, a government, over the Indians; yet they have in reality and truth of more solid effect, an influence, *an ascendancy**, in all the councils of all the Indians on the continent, and lead and direct their measures, not even our own allies, the Five nations, excepted; unless in that remains of our interest, which, partly the good effects of our trading house at Oswego, and partly General Johnson, has preserved to the English, by the great esteem and high opinion the Indians have of his spirit, truth, and honour.

* I mention nothing here of the influence of the Jesuit missionaries, because nothing is meant less than religion by them.

EAST.

In the French Interest.

Esquimaux.
St. John's.
Micmacs.
Penobscots.
Noridgwalks.
Abenakais.
St. Francis Indians.
Cachnewage.
Scaatecoke.
Oswegatchie.

Senekes. } Supposed to be in
Onondagas. } the British Inte-
Cayugas. } rest, but greatly
Oneides. } debauched by the
Tuskaroras. } French.

Mohawks. } Wholly in the Bri-
Mehikanders. } tish Interest.

Delawares. } Lost to the English,
Shawenese. } except a few on
Susquehanah.

Catawbas. } Supposed in the En-
Cherokees. } glish Interest, but
Chickaws. } much debauched
by the French.

WEST.

French

Sioux.
Nadonefferies.

Illinois.
Tawigtwaes.
Miami.
Piankefshanaes.
Wawyaftacs.
Picques.
Kaskuskies.
Cawetas.
Abekas.
Talaponches.
Alibamôus.

} The four Na-
tions of the
Creeks, as
above.

NORTH.

Wholly French.

Affinipoels.
Adirondacks.
Algonkins.
Outawawaes.

Chononderdes
or Hurons.
Messifagues.
Outagamies.
Mifcontiris.
Sakis.

Christanaux.
Almipogins.
Nipifenes.

} Skaniadere-
roenues.

SOUTH.

Ofagaes.
Akanfaes.
Chaftaws.
Panimaes.
Adages.

} Wholly French.

The English American provinces are as fine *settlements* as any in the world ; but can scarce be called *possessions*, because they are so settled, as to have no possession of the country : They are settled as farmers, millers, fishermen, upon bays and rivers, that have no communication or connection of interest, consequently, the settlers belonging to these rivers, bays, &c. have no natural connection.

But

But further, the settlers upon any one river or set of waters, which waters having a connection, might become the natural seat of a one interest, are yet so settled, that they have no connection nor union amongst each other, scarce of communion, much less of defence.

Their settlements are vague without design, scattered, independent; they are so settled, that from their situation, 'tis not easy for them to unite in a system of mutual defence, nor does their interest lead them to such system, and even if both did, yet through the want of a *police* to form them into a community of alliance, unity, and activity amongst themselves, they are helpless and defenceless; and thus may the English be considered as having, for many hundred miles, a long *undefensible line of frontiers*, prior to the consideration of the nature of the enemy they may be engaged with.

3dly, The state of the service is arising from the above facts.

It appears from the first cast of the eye, that the English, without some *preparative measures*, will not be able to carry into execution any military expeditions against the French in the upper part of America; because from any post where they can form an army, and lay in all its stores, ammunition and provision, they must undertake for many hundred miles, a long, dangerous, and tiresome march, by roads the most harrassing, and of almost insuperable difficulty, through a wilderness of woods and mountains, without magazines

zines of forage, &c. or any other assistance; through a country liable to ambuscades, and all the strokes of war; through a country whereof the French are possessed of the command, or if through any part where their personal command does not actually exist, yet where Indians, (the most dangerous enemies in such a wilderness) where the Indians, I say, are masters, and possessed of every hold and pass.

To put this matter in a still stronger light, let any one consider, whence arises the danger of marching through a fortified country; whence the danger of a general's leaving behind him any enemy's fort or garrison, not taken.—It is that the enemy, who has possession of these, has the command of the whole country, except the sole confined spot, where the stronger army is present, can forbid and restrain the inhabitants from furnishing you with such assistance as the country is otherwise capable of affording; can, by sallies from these posts, cut off and intercept all your parties and convoys, all your intelligence; can cut off all communication with your magazines, and your own posts; can perpetually harass and obstruct your march, and return within cover, before any superior party, sent out from the main body, can reach them; you are also always liable to surprize, even within your camp.

A march from any post where the English can *at present* form any army, and collect its stores, ammunition, provisions, carriages, &c. through the country, as at this day above circumstanced, is,

is, literally and precisely in its effect, the same thing as the march here described.

While the Indians, whose chief art of war is that of forming ambuscades, who have acquired, from practice and art, a peculiar method of secretly traversing the woods and lying concealed in them;—while the Indians, whose military skill of fighting either single or in parties amidst these woods, renders the situation to them equivalent to fighting under cover;—while the Indians thus trained, and incredibly expert in the art, can at any time fall out from the holds, fastnesses, lurking places, and ambushes, in which the country abounds, (and all which they know) nay, even from the cover of the woods, and drive in all your small out parties, prevent such foraging as the country will afford, intercept and obstruct your convoys, cut off your communication of intelligence, provisions and succours, and retire again within cover, out of danger of any pursuit, and continue thus constantly to harass, and, perhaps, surprize your army: while they can do this, and (believe it) all this they can do and will do, your army is to all intents and purposes, (as to the war with the Indians) marching through a country of forts and fortresses. Let any one here, compare this state of the case with the cause and reasons of the failure of the several military expeditions on this continent, and its truth will be still more evinced.

As then no general would think of making a campaign in any country, to reach which, he must march through an enemy's fortified country,
without

without some *previous measures* to maintain his march and secure his retreat through such: so here (I repeat it) there are some *previous measures necessary*.

The *first* of these measures is, the settling the police of our alliance with the [Kenunctioni] or Five-nation confederacy, upon a permanent, solid, and effectual basis, so as to restore and re-establish our interest with them.

The *second* is, taking possession of, and fortifying a system of advanced posts, entrepôts, *viz.* magazines whereat to collect stores and provisions, camps from whence (within a reasonable distance and by a practicable way) to make our fortis.

Thirdly, The securing the dominion of lake Ontario for the present, and laying a foundation for the like dominion on lakes Erie, Huron, and Michigan.

Let now any one consider the above stating of the form of the country that the English inhabit, and in which the operations of our arms must lie: Let him raise in his mind seriously, the precise idea of the native inhabitants who possess this country, and of the kind of operations by which we are, and shall be attacked, and by which we may be able to defend ourselves: Let any one, I say, by a serious attention to the above facts, form to himself that idea, which an actual and practical knowledge of the country would give him: Let him then be told a melancholy

lancholy truth, that almost all those Indians, whose friendship and alliance were once our best and securest barrier, are now by the French debauched and alienated from us, nay even turned against us, and become the servile instruments of the French robberies, massacres, and treacherous incroachments: Let then his eye be turned upon the state of our back inhabitants, settled in a vague, unconnected, defenceless manner, up to the mountains, to the very mouth of the dens of these savages.—Any one attentively considering the above facts, will see the English colonies in not only a weak defenceless state, but exposed to, and almost at the mercy of a very powerful enemy: Considering this, and the above facts, he would see how superficial, wild, and false an idea of the service that is, which would create a barrier by a line of forts; a barrier that might as well pretend to cut off the bears, wolves, and foxes from coming within it, as the Indians; a barrier that would have no more effect than so many scarecrows, unless you could actually build another Chinese wall, and so another, still advancing your wall-fence, as you advanced your settlements; a barrier that would take more troops to man it, than the country inclosed within it would take people to cultivate it; a line of 13 or 14 hundred miles, that is at last no line at all; he would, I say, see this measure not only impracticable, but ineffectual: Nay, were it practicable, and could it take effect, yet the insupportable expence of it, would render it impossible to be engaged in. Any one reasoning on the ideas as above stated, and knowing them to be what they really are, *facts*, would turn his thoughts

thoughts on those objects which experience, fact; and reason point out to be one part of our barrier: Namely, a real and stable alliance with the Indians, formed on such articles as should give us the same kind of possession and command in the Indian country, the same influence in Indian affairs, as the French have. And,

First, As to that part of our barrier, and the service which is connected with, and depends on our alliance and interest with the Kenunctioni, the confederacy of the Five nations, I can only repeat what I have said formerly on this subject.

* “ The original natural form under which the Indian country lay being that of a forest, stocked not with sheep, or oxen, or horses, not with beasts of labour and domestic animals, but only with wild beasts and game, all that the country afforded for food or raiment must be hunted for: The Indians, therefore, would constantly be, as they were in fact, not land-workers, but hunters; not settlers, but wanderers; they would therefore, consequently never have, as in fact they never had, any idea of property in land; they would consequently never have, as in fact they never had, any one common fixed interest, any one communion of rights and actions, one civil union, and consequently not any government;

* This proposal, amongst others, was contained in a paper, delivered by the author of this memoir, to the commissioners of all the Colonies, assembled at Albany in 1754. and transmitted to government with their minutes.

they

they know no such thing as an administrative or executive power, properly so called. They allow the authority of advice, a kind of legislative authority, but there is no civil coercion; they never had any one collective, actuating power of the whole, nor any magistrate or magistrates to execute such power.

But the country now appearing under a very different form, and they, the Indians, being under very different circumstances, arising from trade, treaties and war, begin to feel rather than see, to find by experience rather than reason, the necessity of a civil union of power and action; and that these circumstances have in fact, for many years been formed, and have at length formed to them such a collective power: These people are precisely in that point of circumstances, where a community, that was before only a community of society, is becoming that of government.

In all their actions, therefore, of late years, whether of treaty or war, they have recurred to *some agent* to actuate this power: They are not only become capable of such a general leading, but their circumstances require it. The circumstances with which they are connected, had formed them into a state, but from the circumstances of the society under which they live, they can never have amongst themselves a *stateholder*; their circumstances require and look out for some such; some such they must have, and if we do not find such for them, the French will, and are, actually attempting it. Further, as they know not, nor
acknow-

strengthen and finally confirm such our interest amongst the Indians, the making little settlements at Oswego, Niarondaquat, and Niagara *, and at our other forts, by leave of the Indians.

Secondly, We should then, according to good faith and truth, leave the Indians in full and free possession of their dwelling country and hunting grounds, which the English have, in the most solemn manner, confirmed to them by treaty, and of which, by the same treaty, we have undertaken the protection: We should guaranty and protect such to them, to their use, and also all their hunting-grounds.—This part of the general scheme also, is in some degree carried into execution, by the instructions given by general Braddock to general Johnson, for his direction in his late treaty with the Indians; which instructions were, at the desire of general Braddock and governor Shirley, drawn up by your memorialist, having been first proposed by him. This measure will be absolutely necessary to preserve these Indians to our alliance, as may be seen in almost every treaty held with them since the first surrender of those lands; it is also necessary to support ourselves against the western French Indians: This proposed measure will be so far from being an impediment or hurt to our interest, that the greatest advantages may be made of it, both in the means towards executing the general plan, and in the final execution of it. The uses that

* If we had done this, or would now do it, we need never suffer ourselves to think of abandoning our several distant posts, on account of the very enormous expence of maintaining them.

may

may be made of this measure towards the executing of this plan, are, That while we are undertaking the protection of the Indian country and hunting grounds, we are actually becoming possessed of the command of the country. Of which, in the whole, when we are possessed of the command and protection (by means of a very few forts necessary to be erected, which I do not here mention) upon which, in part, according to the proposed colonies and settlements, when we are settled, the Indians will be preserved and protected to their satisfaction, and yet cannot move to war, nor even to hunt, nor subsist, but as they maintain their alliance with the English; and yet in conjunction with us, their whole force by these means being become infinitely greater, may be directed at any time into the heart of the enemy's country.

Thirdly, As to the administration of * Indian affairs to the southward, the first step necessary to

* These Indians are the Catawbaes, Cherokees, Chickasaws, and Creeks. The Creeks are in part debauched and alienated from us by the French, and attend the French treaties constantly at the Mobile, especially the Alibamous, Cowetaes, Talapouches, and Abekaes, and are in great measure held under subjection by the French forts at Alibamous, and tombeckba.

The Chickasaws are greatly weakened, and almost ruined by the intrigues of the French within them, and by the wars with the Chactaws, and other French Indians, being unsupported by us.

The Cherokees and Catawbaes, but ill supported by us, are constantly harrassed and warred upon by the Five Nations, at the instance of the French influence among that people.

be taken is, that there be an absolute stop put to all provincial administration; that there be no more agents, commissaries, or interpreters, appointed by, and acting under the private orders of a particular province or proprietories, from whence arises interferences and confusion, and opposition in our Indian affairs, always to the obstructing, often to the utter ruin, of the British general interest.

Instead of these, there should be one only principal commissary (who understands the language and interest, and is acquainted with the people of that nation) appointed severally to each nation: This person should have under him several store-keepers and smiths.

All these principal commissaries should be subordinate to a one general agent or superintendent *, who should be under the orders of the commander in chief only,—acting by his orders and instructions, form'd on a *one general idea* of the English and Indian interest, of our alliance, and of the measures to be constantly and uniformly pursued.

As the being supplied with European goods, is to the Indians the first essential interest of their politics, is the sole and actual object of their alliance with us, and the only real and permanent motive of their attachment to us; and as, according to the custom of these people, all pub-

* *N. B.* There has been one since appointed, Mr. Stewart, a very active, intelligent, and able man.

lic transactions are executed by exchange of presents, all public friendship preserved and animated by public hospitality and liberality, the first and fundamental object of the English measures should be to provide for these, in a regular and sufficient manner. The being able to do this, is our peculiar advantage and superiority over the French in these affairs; their measures are perpetually impeded and distressed, through their being unable to do this; it is the only difficulty that they have not surmounted, and cannot surmount; it is this that makes our alliance, if we did conduct it as we ought, the true and natural interest, the true and natural politicks of the Indians.

There ought therefore to be concluded with these southern nations, a general alliance of friendship and mutual defence and assistance, founded on the British general interest, not any provincial private one, upon a one general, uniform plan: The 1st article of which should be, To do justice to all their claims, to redress all their wrongs.

2^{dly}, To maintain with them all public hospitality and friendship, by public, annual, and occasional presents, by entertaining them, and by all other usual assistance, to establish a fair and just trade with them, and settle stores within their countries, or wherever is most convenient for them, with a constant supply of goods at a settled and cheaper rate than the French do supply them.

3dly, Mutually to assist each other against all attempts of the French or their Indians, or any hostile attempt whatsoever upon either; constantly and faithfully to give all intelligence to each other, to mend their guns when they have occasion to go to war, to supply them at such times with ammunition, and always to send some of our people along with them if they require it, except against Indians in alliance with the English; and whenever the English call upon them, to go out with them to war, that the English supply such as want them, with arms, and *all* with provisions and ammunition, and defend and maintain their wives and children in the mean time.

This being done, a fund capable of answering the above engagements, and of constantly and faithfully executing them, and also capable of supporting an administration of Indian affairs, that may work effectually to the preserving and maintaining the British interest in such measures, should be settled on a general and permanent foundation; which may be as follows:

That the several colonies who have hitherto constantly raised monies for Indian affairs, as a private provincial service, should for the future appropriate such monies to this general fund.

That such colonies as have never raised any monies for these services, should, for the future, raise and appropriate to this fund, such sums under a quota, in proportion to the benefit received, or the harm avoided, by the barrier arising from
this

this general alliance and administration of Indian affairs; and it becomes worthy of consideration, whether the islands in the West Indies, their interest being inseparably connected with that of the continent, should not bear a certain proportion of taxes towards the charge of the war.

Matters within ourselves being thus prepared and provided for :

The first step of our measure in this branch should be, establishing, by the advice of people of the best authorities, and most knowledge of the affairs of each nation respectively, at proper places, general magazines for this service, at the most convenient entrepôts between *marine and inland navigation* of carriage, whence lesser stores, respectively subordinate to these, might be best supplied within the Indian countries, or where is most convenient for the Indians: As for instance, one at Schenectady, or rather at Mount Johnson;—one either at William's ferry on the Potomac, or at Fort Cumberland on Will's creek;—one other somewhere on the Roanoak, or James river;—one other at fort Augusta, on the Savanah.

From these general magazines, the several national or tribe-stores should be constantly supplied: These stores should be also public truck-houses, and the store keeper be also a public truck master: These to be fixed in each particular nation, in such places, and in such number as hath been usual, or will be best for the good of the service, at each of which there should also be

a smith. The commissary appointed to the affairs of each nation, to command and superintend all the store keepers, truck masters, smiths, and all the stores, and to be constantly circuiting through these, living always at some one of them, and attending respectively at any of them, where-so-ever he is commanded by the general agent, or the good of the service requires: Also at all times (unless in matters of a more public general import, when the general agent is to attend) to negotiate and transact all matters of business which such nation may have to do with any other, or with any colony, and to interpret between the Indians of the nation he is appointed commissary to; and in general, within the powers of his instructions, to do all those matters and things as have usually been done by provincial agents or interpreters; that the store keepers and smiths do keep constant journals, and make report to the commissary; that the commissaries keep a regular journal of these reports, and of their own transactions, and report to the general agent, and he likewise to keep a journal and record, and report to the commander in chief.

The order then of the public presents, the public hospitality and liberality being settled, according to the nature of those Indians and our alliance with them:

The method and laws of the trade with them being also settled;

The next step to be observed, I take entirely from the French; and it is a measure, according
to

to my idea, absolutely necessary. Observing the want of subordination among the Indians, the French make a number of sachems, to whom they give medals and appoint them to preside as chiefs, leaders, counsellors, speakers, &c. some over eight, some over ten villages, and so on as their influence extends; being easily, by presents and money, possessed of these medal-chiefs, they thus easily acquire a more uniform and stable management of their Indians, than the Indians even know of amongst themselves.

Let it be a standing instruction, faithfully in all and every matter, to execute and fulfil, according to the true spirit and intent, the above treaty and alliance, both as to the true interest of the Indians, and as to the forming their alliance into a firm barrier against the French, and enemy Indians.

The several people employed in Indian affairs to have constantly in view, the scheme of *uniting the several nations into a confederacy* like that of the Five Nations. In order to this, that there be found out and fixed upon some one place in the back country, whereat the general agent should hold all his general treaties and parlies with these Indians, as the French do at the Mobil; which place, upon the success of this scheme, to be the council place,—as Onondaga is to the Five Nations. Let any one consider how a little republick, formed by the Welinis on the river Ouäbasch, by some free and independent Indians, did greatly embarrass, and had well nigh ruined the French affairs there.

This

This third branch (according to my idea of our barrier) being thus or in some such way provided for and administered ;

The fourth, is, that of a *system of magazines and fortified camps* as entrepôts, wherewith either to collect for defence, or from whence, within a reasonable distance and by a practicable way, to make our fortis. This branch is in part provided for ; for by removing and advancing these stores, and at length, when a proper place is found to fix them on, that would defend and command the country, getting leave to fortify them, and so erect them into forts, the Indians are defended, are at the same time held within proper terms, and we have within a friend's country, advanced posts or entrepôts,—that would answer all the purposes of defensive or offensive operations against the enemy ; and all that could be in this place said on that head, I have very minutely entered into in that part, where I explain the nature and state of the country and its inhabitants. I will only add their opinion of one post, which we once had, and of another that they feared we were about to make.

Mr. Vaudreuil, governor of Canada, in his letter to the court, May 10, 1744, mentioning the leave which the English had got to build a fortified trading house at Ockfusques, amongst the Creeks, says, “ If the measure of which this might be a foundation, should be properly carried into execution, it would oblige the French

to retire from their fort of Alibamôus down to the Mobile.”

And again in another letter, September 17, 1744, he mentions this store-house having opened a traffick with the Chactaws,—yet this the English abandoned; and the French have now a fort on each main branch of the river Mobile; one at Tombechbé, and fort Toulouse at Alibamôus.

In another letter of November, 1748, he says, it would be very easy for the English, by means of the river Ohio, to form an entrepôt at Prudhomme to serve them as a retreat, having the nations of the Shawoänacs, Cherokees, and Chickasaws, on their back to support them. From this entrepôt, it would not be difficult for them to penetrate to the Ackanfas, Panis, Osâges, Padouces, and Misouris, and all the other nations of that country, if the posts and settlements of the Illinois were broke up, as they would certainly be, did the English settle and fortify at Prudhomme; not only the inhabitants of the Illinois would be lost to us, but also the inhabitants near New Orleans, would be so greatly distressed for the want of the succours and provisions of this country, the granary to it, by loss of the benefit of the trade with that post, it would be difficult for them to subsist, it would be impossible to maintain the expence they must live at without it, and they must be obliged to abandon the colony: But should not matters be so bad as this, yet, were the post of the

the Illinois taken away, the colony would not be able to extend itself at furthest, beyond the post of the Natches, without a very strong garrison at the post of the Ackansas, and at best that post would be too low to cover the hunting country.

When such forts are erected, the commanding officer at each fort should be a kind of comptroller on the commissary or store keepers for that division, and should be furnished with provisions and necessary stores to make presents to, and to entertain the Indians when they come to him, and to supply their necessities: He should, for this reason, have a right to make an order on the magazine of his division for this purpose.

Fifthly, In other parts of our frontier, that are not the immediate residence and country of Indians, some other species of barrier should be thought of, of which nothing can be more effectual than a barrier colony; but even this cannot be carried, as is hereafter explained, into execution and effect, without this previous measure of a system of entrepôts in the country between us and the enemy. *The nature of this system*, must depend on the nature of the ground, which can only be determined by a particular view, and will then immediately be best known to military men; but all mankind must know that no body of men, whether as an army, or as an emigration of colonists, can march from one country to another, through an inhospitable wilderness, without maga-

magazines, nor with any safety without posts, communicating amongst each other by practicable roads, to which to retire in case of accidents, repulse, or delay.

It is a fact which experience evinces the truth of, that we have always been able to outsettle the French, and have driven the Indians out of the country more by settling than fighting; and that wherever our settlements have been wisely and completely made, the French neither by themselves, nor their dogs of war, the Indians, have been able to remove us. It is upon this fact that I found the propriety of the measure of settling a barrier colony in those parts of our frontiers, *which are not the immediate residence or hunting grounds of our Indians*. This is a measure that will be effectual, and will not only in time pay its expence, but make as great returns as any of our present colonies do; will give a strength and unity to our dominions in North America, and give us *possession* of the country as well as *settlements* in it. But above all this, the state and circumstances of our settlements renders such a measure not only proper and eligible, but absolutely necessary. The English settlements, as they are at present circumstanced, are absolutely at a stand; they are settled up to the mountains, and in the mountains there is nowhere together, land sufficient for a settlement large enough to subsist by itself and to defend itself, and preserve a communication with the present settlements.

If

If the English would advance one step further, or cover themselves where they are, it must be at once, by one large step over the mountains, with a numerous and military colony. Where such should be settled, I do not now take upon me to say; at present I shall only point out the measure and the nature of it, by inserting two schemes, one of Mr. Franklin's; the other of your memorialist; and if I might indulge myself with scheming, I should imagine that two such were sufficient, and only requisite and proper; one at the back of Virginia, filling up the vacant space between the Five Nations and southern confederacy, and connecting, into a one system, our barrier: The other somewhere in the Cohas on Connecticut river, or wherever best adapted to cover the four New England colonies. These, with the little settlements mentioned above, in the Indian countries, compleats my idea of this branch.

The dominion then of the lakes being maintained, by a *British navy* of armed vessels, suited to the nature of the service, according to a plan proposed by your memorialist, in June 1754, to the commissioners met at Albany; which part of the general frontier is, according to that proposal, by order from England, and at the expence of the crown, now carried into execution, compleats the whole of my idea of this frontier.

These matters being thus proposed, I do not at all enter into that point of their execution which is the duty of the military, as it is a mat-

ter in which the judgment of a civil man may not have its weight, nor into the manner of removing the French from their encroachments; yet I cannot but in general observe, that as the present military object of his Majesty's service in this country, is either to erect forts, or to demolish those erected by the French on his Majesty's lands; and as the way to all such lies through woods and wildernesses, there is a proper sphere of action peculiar to each, both for his Majesty's regular troops, and for the provincial troops of the country. The provincial forces of these countries, as irregulars or light troops, can, the best of any forces in the world, escort his Majesty's troops through these woods, to where their proper scene of action lies; they can also in the same manner hand up all their convoys, and would, I am persuaded, should any occasion call for their service, act with bravery and spirit: They are also fit for what may be properly called an expedition, some excursion a la brusque of ten or twenty days continuance: They should therefore be employed either as a covering army, or kept with the regular army, in companies of light infantry, for escorts, scouring and scouting parties; while the regular troops, as a main body, marching by these means without being harrassed, sustain them; while his Majesty's troops alone are fit for the various duties and services of a continued regular campaign, and for the fatigues and perseverance, and skill, necessary in a siege.

I must

I must also observe, that this is not proposed as a scheme to be executed all at once; but, as a general plan of operations, to be preserved and attended to in the whole; to which every part of our measures, as they shall arise into action and come upon the field, are to be referred; to which, in all seasons and at all occasions, as from time to time such shall offer or serve, our measures must be directed; and to which every individual, and every part, must conspire and co-operate to form a whole.

T. POWNALL.

S E C.

SECTION II.

THE ideas of the service contained in the paper above, lead by fair consequence to the following proposition, that after the English had been repeatedly disappointed in their attempts to penetrate the country, by the way of Crown-point and lake Champlain, and had lost Oswego and the command of the lake Ontario, considering the reason there was also to expect the defection of the Indians in consequence of it, there remained no other alternative, but either to make peace, *or to change the object of the war*, by making a direct attack, up the river St. Lawrence, upon Quebec itself, urged to a total destruction of Canada. The writer of these papers came over to England in the latter end of the year 1756, to propose and state these measures, nearly in the same form as was afterwards repeated by the paper that follows, particularly marking the necessity of two fleets, and two armies: One army destined for the attack; the other under orders to invest Canada, by taking post somewhere between Albany and Montreal, so as to cover the English colonies: One fleet to escort and convoy the army up the river St. Lawrence; and the other to cover and protect the sea line of the colonies. The object was adopted. Why nothing was done in the year 1757, and why no more was done in the

year 1758, than the taking of Louifbourg, will be explained on a future occasion; the ideas contained in the following paper lead to the rest.—

IDEA of the SERVICE in AMERICA,
for the year 1759.

BOSTON, December 5th, 1758.

IF the point disputed between us and the French, be determinately and precisely understood, the manner of conducting it may be soon fixed: If we are still, as we were at the first breaking out of the war, disputing about a boundary line, and for the possession of such posts, communications and passes, as may be a *foundation* to our possessions of a future dominion in America, we are still engaged in a petty skirmishing war: from the state of which it was always plain, and experience now proves it, that we shall ever be inferior, and beaten by the French; for the French have long ago, by a continued system of measures, been taking possession of such posts as hath given them that foundation: They have already established that which we must fight to establish, inch by inch.

If we have changed the point, and brought it to its true issue, its natural crisis, whether we, as provinces of Great Britain, or Canada as the province of France, shall be superior in America; then the service to be done, is a *general invasion* of

of Canada, in conjunction with the European troops and fleet; then is our natural strength employed; and we must consequently be as naturally superior.

This being fixed, the next point is, where the real attack must be made: the same reasons that show the necessity of such a general attack, show that it will *never effectually be carried on over land*; for, if it could, Canada might as effectually be destroyed, by the petty skirmishing war, for posts, passes, &c. as by a general invasion. But experience has now shown, what reason might have seen some time ago, that as the state of the service is circumstanced between us and the French; that cannot be; the possession which the enemy has of the posts of strength; the carrying places, passes, water communications; and roads, by forts, redoubts, and their Indians, would render the passage to Canada by land, the work of a campaign, even with success; but finally also, the success doubtful. The road to Quebec, up St. Lawrence river, we possess by *the superiority of our marine navigation*. There is neither danger nor difficulty, nor do I see how there can be any opposition; to hinder the fleet getting up to the island of Orleans; and a superior army in possession of that, may, by proper measures, command the rest of the way to Quebec. If our army can once set down before Quebec, it must take it: If Quebec be taken, the capitulation may at least strip Canada of all the regulars; after which the inhabitants might possibly be induced to surrender.

If this attack be determined, the fleet of transports will be escorted up the river by the frigates, bombs, and other small vessels of war: *But while our forces are all up the river, a very strong Squadron seems necessary to cover the maritime parts of our own colonies.*

I am told, that many French vessels proceed early in spring, to the bay of Gaspee, before the river St. Lawrence is navigable, and lie there till the river breaks up, then slip up without danger, when for some time it would be almost impossible to cross the gulph; for as soon as the ice breaks up in the river, it is presently clear; but the ice embayed in the gulph, swims about for a long time, and renders the navigation of that gulph extremely dangerous, long after the river may be navigated with safety. If this fact be true, it seems necessary, that two or three of the ships of war should proceed to Gaspee, before the river St. Lawrence breaks up, in order to prevent any succours being sent up the river in spring.

But although this attempt on Quebec, by way of St. Lawrence river, may be the only real, and will be the only effectual attack on Canada; yet one other, if not two false attacks will be necessary, one by way of lake Champlain; the other by way of lake Ontario. That by way of lake Champlain may, as far as Crown-point, be offensive, and should then change into a defensive measure, by taking strong post there, with a garrison which will effectually check the enemy at that gate of the country, and from whence

continual scouting parties, to harrass the settlements, and beat up the quarters of the enemy, should be sent down the lake. As there are now so many regiments at Albany, Skenectady, fort Edward, and the posts on the river, the taking fort Carillon, at Ticonderôga, and of consequence fort St. Frederick at Crown-point, might be effected with these, together with such provincials as shall be thought necessary, (if not in winter) yet, before the time for embarking for St. Lawrence river approaches: and this time appears the more proper, as it may possibly be before the French can sufficiently relieve it. The reason that makes me think that this should be attempted is, that the possession of this post is an effectual investing of Canada in that quarter: The reason why I think no more should be attempted is, that it *would prove unsuccessful*, and that all the labour and expence that is employed in the attempt, is lost as soon as it is given over.

As we have now so good an entrepôt towards lake Ontario, as the fort at the Oneida carrying place, it is now in our power to attempt acting on that lake; the want of this rendered all attempts there before, abortive and unsupportable. An appearance of an attack on Canada by that way, must greatly alarm the enemy at Montreal; and, though I do verily believe we shall never succeed to make an effectual irruption that way, *until Quebec be taken*, yet as whatever shall be done on that lake towards such an attempt, viz. taking post at some part on the lake, and building vessels, will have a collateral effect; even

supposing the first to prove abortive, that will prove a most essential point of service, namely, the gaining dominion of the navigation of the lake. So that should nothing else be done, yet what is done, and what is spent, will not be thrown away; but remain a chief corner-stone in the foundation of the British dominion in America:—Besides, if we remain, during the campaign, superior in the lake, the enemies communication with their southern posts is cut off, their connection with the Indians of the Five Nations interrupted; and we may, in the course of chances, possibly take Niagara. This amphibious kind of service seems adapted to the provincials, especially those of New York and Rhode Island, accustomed to privateering and batteauing: but these should be supported by good garrisons of regulars, in such posts as may be found necessary to be taken at the entrepôt on the Oneida carrying place, and at the port it shall be found necessary to possess on the lake.

As to the number of regular troops necessary for the attack on Quebec, I have not presumed to speak, for I am no judge; but a number of provincials will certainly be necessary, and these such as are used to the water, and marine navigation, for such will be of the most essential service in the passage of the army from the lower end of the Isle of Orleans to Quebec, where most of the difficulty and danger will lie. Now for this service, none can be so well adapted as the people of the province of Massachusetts Bay, as they are all, in the southern parts, whalers and fishermen. After the troops are landed near Quebec, numbers will
be

be wanted, such as are used to carrying heavy lumber and timber, &c. through the woods. Now for this service, none can be so well adapted as the inhabitants of New Hampshire, and the county of York, in the province of Massachusetts Bay, who are so perfectly accustomed to the masting service, that is, fetching the great masts down from the woods; besides, the people of Massachusetts in the counties of Hampshire, Worcester and York, are the best wood hunters in America; and would therefore, disposed in proper out-posts, be the best adapted to the keeping the camp before Quebec quiet from the enemies partizans and Indians, or perhaps in breaking up the enemies settlements in the country, while the regulars were taking their towns. For this purpose also, I should think, if about a hundred thorough wood hunters, properly officered, could be obtained in the county of York, a scout of such might make an attempt upon the settlements by way of Chaudier river. Such a scout, to the purposes of alarming and keeping the enemy in abeyance there, or perhaps breaking up the settlements, is practicable; and, I think, with early notice, such a scout may be obtained.

These are the services our people are fitted for; and therefore, as far as relate to the people of the province his Majesty has committed to my care, I can be positive, that if his Majesty's General would have a real and effectual service from them, they must be employed in such. Take those who live inland and carry them to sea, or those who have lived by the sea, and march them through the woods, they will be useless and sickly.

Employ each in their proper element ; let those who are naturally connected with Hudson's river, and acquainted with inland navigation, be employed up in the back country, and lakes to the westward ; and those who border on the sea, and are used to marine navigation, be employed in the service that goes by sea to the eastward ; and then for every ten men on paper, there will be ten men's real service.

I have in this paper confined my idea to the invasion of Canada, and the attacks on that country, and so have said nothing of that very necessary service, the erecting a fort at Penobscot river, which on different occasions I have before repeatedly expressed.

I have confined my idea to Canada, and have therefore said nothing of fort Du Quesne ; but if I had extended my idea to that part, I should have endeavoured to consider how far, or not, it might be practicable to break up the enemies settlements on the Ohio, and the Illinois country, founded on this opinion of Mr. Vaudreuil himself, in his letter to his court, when governor of Louisiana, November 1748.—“ It would be very easy
 “ for the English, by means of the river Ohio,
 “ to form an entrepôt at Prudhomme, to serve
 “ them as a retreat, having the nations of the
 “ Shawöanese, Cherokees and Chickasaws on their
 “ back and to support them. From this entre-
 “ pôt it would not be difficult to penetrate to the
 “ Akanasæ, Panis, Osagæ, Padouces, and
 “ Missouriis, and all the Ohio nations of that
 “ country, if the posts and settlements of the
 “ Illi-

“ Illinois were broken up, as they would cer-
 “ tainly be, did the English settle and fortify
 “ at Prudhomme; not only the inhabitants of
 “ the Illinois would be lost to us, but also the
 “ inhabitants near New Orleans would be so
 “ greatly distressed for want of the succours and
 “ provisions of this country, *the granary to it,*
 “ by the loss of the trade with that post, that it
 “ would be difficult for them to subsist, it would
 “ be impossible to maintain the expence they
 “ must live at without it, and they must be
 “ obliged to abandon the colony: But should
 “ not matters be so bad as this, yet, were the
 “ posts of the Illinois taken away, the colony
 “ would not be able to extend itself at furthest
 “ beyond the post of the Natches, without a
 “ very strong garrison at the post of Arkansas,
 “ and at best that post would be too low to *cover*
 “ *the hunting ground.*”

I should have extended my idea to an attempt
 by a West India Squadron, with troops raised in
 the islands on Mobile, for nothing would more
 embarrass the enemy's Indian affairs in Louisiana,
 than the taking this place, the grand rendezvous
 at all their treaties. For they support a garrison
 here; amongst other reasons, for this also, (as
 Mr. Vaudreuil, in one of his letters to the court,
 says) “ to influence the Indians, as there are
 “ at our meetings and treaties, held here annu-
 “ ally with the Indians, sometimes 2, sometimes
 “ 3,000 Indians present.”

I should also have recommended the taking
 post at Ocasulqué amongst the Creeks, because,
 says

says Mr. Vaudreuil, " If the measures of which
" this might be a foundation, should be properly
" carried into execution by the English, it would
" oblige the French to retire from their fort at
" Alibamôus down to the Mobile."

T. POWNALL.

To the Right Honourable
Mr. Secretary Pitt.

The reader is here desired to refer to the events
of the year 1759 in America.

Quebec was taken by general Townshend, the
moment that the army was enabled to set down
before it, by the greatly hazarded, and gloriously
successful stroke of general Wolf.

The operations of the army under general
Amherst, could not, by all the skill and deter-
mined perseverance of that excellent officer, be
pushed further than Crown-point, and there be-
came defensive by fortifying that point.

The operations up the Mohawks river, and
on lake Ontario, were carried just to that effect
which opened the way for the next campaign,
1760, when general Amherst went that way to
take possession of Canada.

Amidst these objects, I mention the taking pos-
session of the Penobscot country, and the building
a fort there by the governor of the Massachusetts
province, merely as it was proposed in the paper
above,

above, and as the proposal and execution of it was approved by the King and his ministers at that time.

The whole fleet was taken up the river St. Lawrence, where, as general Wolf expressly declares, it was a part of the force least adapted to the object: The sea-line of the colonies was left uncovered and open. If the French had had sense enough to have sent two ships of the line, with a frigate or two, and one or two bomb-ketches, they might have burnt Halifax, Boston, New York, or Philadelphia, without interruption; or even if such measure had not been carried to that degree of success, they might have raised such an alarm as should have broken up some of our active, offensive operations, in order to come to the defence of this sea-line; and, perhaps, thus the whole of the operations of 1759, have been disconcerted and defeated. To enquire why this was done, would at this time become a mere criticism, for as, by good luck, no such accident happened, it is right that success should justify every measure.

To give reasons why nothing was attempted towards the quarters of Louisiana at that time, will be the solution of some future discussion.

S E C T I O N I I I .

The following instructions, referr'd to in page 36, Appendix, drawn up by T. POWNALL, and recommended to General BRADDOCK, were, by that Officer, sent to Col. JOHNSON.

YOU are to produce to the Indians of the Six Nations, a deed which will be delivered to you by Col. Shirly, and in my name, to recite to them as follows.

Whereas it appears, by a treaty of the Five Nations, made at Albany on the nineteenth day of July 1701, with John Nansan Esq; Lt. Governor of New York, That the said Five Nations did put all their Beaver Hunt, which they won with the sword, then eighty years ago, *under the protection of the King of England*, to be guarantied to them and their use. And it also appearing, by a deed executed in the year 1726, between the Three Nations Cayouges, Senecaes, and Onondagaes, and the then Governor of New York, that the said Three Nations did then surrender all the lands lying and being, sixty miles

miles distance, taken directly from the waters into the country, beginning from a creek called Canahoqué on the lake Oeswego, extending along the said lake to the falls of O'niagara, and along the lake Cataraquis to Sodons creek, and from Sodons creek, to the hill called Tegechunckferôde, and from thence to the creek called Cayhughâge, as is particularly described in said deed, including all the castles of the aforesaid Three Nations, with all the rivers, creeks, and lakes within the said limits, to *be protected and defended* by the King of Great Britain his heirs and successors for ever, to and for the use of them the said Indians, their heirs and successors for ever.

And it appearing that the French have, from time to time, by fraud and violence, built strong forts within the limits of the said lands, contrary to the covenant-chain of the said deed and treaties: You are in my name, to assure the said Nations, that I am come, by his Majesty's order, to destroy all the said forts, and to build such others *as shall protect and secure* the said lands to *them, their heirs and successors* for ever, according to the intent and spirit of the said treaty, and do therefore call upon them to take up the hatchet, and come and take possession of their own lands. —

S E C T I O N I V .

The following is referr'd to in page 47.

Pro Johanne Caboto & filiis suis super terrâ
incognitâ investigandâ.

Rex omnibus, ad quos &c. Salutem.

A. D. 1496.
A. II. H. 7.

NOTUM sit et manifestum, quod dedimus & concessimus, ac per præsentem damus & concedimus, pro nobis & hæredibus nostris, dilectis nobis Johanni Cabotto, civi Venetiarum, ac Lodovico, Sebastiano, & Sancto, filiis dicti Johannis, & eorum ac cujuslibet eorum hæredibus & deputatis, plenam ac liberam auctoritatem, facultatem & potestatem navigandi ad omnes, partes, regiones, & sinus maris orientalis, occidentalis, & septentrionalis, sub banneris, vexillis & insigniis nostris, cum quinque navibus sive navigiis, cujuscumque portituræ & qualitatis existant, & cum tot & tantis nautis & hominibus, quot & quantis indictis navibus secum ducere voluerint, *suis & eorum propriis sumptibus & expensis;*

Ad

Ad inveniendum, discooperiendum & investi-
gandum quascúmque insulas, patrias, regiones,
sive provincias gentilium & infidelium, in qua-
cumque parte mundi positas, quæ Christianis
omnibus ante hæc tempora fuerunt incognitæ.

Concessimus etiam eisdem & eorum cuilibet,
eorumque & cujuslibet eorum hæredibus & de-
putatis, ac *licentiam dedimus affigendi prædictas
banneras nostras & insignia in quacúmque villâ,
oppido, castro, insulâ seu terrâ firmâ à se noviter
inventis.*

Et quod prænominati Johannes & filii ejus-
dem, seu hæredes & eorum deputati quascúmque
hujusmodi villas, castra, oppida & insulas à se
inventas, quæ subjugari, occupari, & possideri
possint, subjugare, occupare & possidere valeant,
tanquam vasalli nostri, & gubernatores, loca-
tenentes & deputati eorumdem, dominium, titu-
lum & jurisdictionem eorumdem villarum,
castrorum, oppidorum, insularum, ac terræ firmæ
sic inventarum, nobis acquirendo;

Ita tamen at ex omnibus fructibus, proficuis,
emolumentis, commodis, lucris & obventioni-
bus, ex hujus modi navigatione provenientibus,
præfati Johannes & filii, ac hæredes & eorum
deputati teneantur & sint obligati nobis, pro
omni viagio suo, totiens quotiens ad portum
nostrum bristollia applicuerint, ad quem omnino
applicare teneantur, & sint astricti, deductis
omnibus sumptibus & impensis necessariis per
eosdem factis, *quintam partem totius capitalis
lucri*

lucris sui facti sive in mercibus sive in pecuniis
perfolvere ;

Dantes nos & concedentes eisdem suisque hæ-
redibus & deputatis, ut ab omni solutione
customarum omnium & singulorum bonorum ac
mercium, quas secum reportârint ab illis locis sic
noviter inventis, liberi sint & immunes.

Et insuper dedimus & concessimus eisdem ac
suis hæredibus & deputatis, quod terræ omnes
firmæ, insulæ, villæ, oppida, castra, & loca
quæcumque, a se inventa, quotquot ab eis inve-
niri contigerit, non possint ab aliis quibusvis
nostris subditis frequentari seu visitari, absque
licentia prædictorum Johannis & ejus filiorum
suorumque deputatorum, sub pæna amissionis
tam navium sive navigiorum, quam bonorum
omnium quorumcumque ad ea loca sic inventa
navigare præsumendum ;

Volentes & strictissimè mandantes omnibus &
singulis nostris subditis tam in terra quam in
mare constitutis, ut præfato Johanni & ejus filiis
ac deputatis bonam assistentiam faciant, & tam
in armandis navibus seu navigiis, quam in pro-
visione comæatûs & victualium pro sua pecunia
emendorum, atque aliarum rerum sibi providen-
darum, suos omnes favores & auxilia impar-
tiantur.

In cujus &c.

Teste rege westmonasterium quinto die Martii;

Per ipsum Regem.

SECTION V.

This Commission—erecting and establishing a board, for the purpose of governing the Plantations, is referr'd to in page 62.

De Commissione speciali domino archiepiscopo Cantuariensi et aliis.

REX &c. reverendissimo in Christo patri et A. D. 1635.
perquam fideli consiliario nostro, Willielmo providentiâ divinâ Cantuariensi archiepiscopo, totius anglie primati et metropolitano.

Ac perdilecto & perquam fideli consiliario nostro Thome domino Covenarie magni sigilli nostri Anglie custodi.

Ac etiam reverendissimo in Christo patri ac perdilecto & perquam fideli consiliario nostro Ricardo providentiâ divinâ Eborum Archiepiscopo, Anglie primati & metropolitano.

Necnon reverendo in Christo patri & perdilecto & perquam fideli consiliario nostro, Willielmo

lielmo episcopo London, summo thesaurario nostro Anglie;

Perdilectisque & perquam fidelibus consanguineis & consiliariis nostris,

Henrico comiti Manchester privati sigilli nostri custodi,

Thome Comiti Arundell & Surr^s, comiti marescallo Anglie,

Edwardo Comiti Dorchestrie, camerario percharissime consortis nostre regine;

Ac perdilectis & fidelibus consiliariis nostris,

Francisco Domino Cottington, Cancellario & subthesaurario scaccarii nostri ac magistro Curie nostre Wardorum & Liberationum,

Thome Edmonds militi, thesaurario hospitii nostri,

Henrico Vane Militi Controrotulatori Hospitii Nostri,

Johanni Coke militi, secretariorum nostrorum primariorum uni, et

Francisco Windebanke militi, secretariorum nostrorum primariorum alteri, salutem.

Cum

Cum subditorum nostrorum et nuper patris nostri domini Jacobi nuper regis anglie, memorie recolende, nonnulli, regiâ licentiâ mediante, imperii nostri territoria, non tantum dilatandi studio, sed precipuè ex pio & religioso domini nostri Jesu Christi evangelium propagandi affectu & desiderio, copiosas gentis Anglicane Colonias, summa industria & magnis expensis in diversas mundi plagas incultas penitus & incolis vacuas, vel a barbaris nullam divini numinis notitiam habentibus occupatas, deduci fecerunt; nos eorum tranquillitati prospicere volentes gratiâ & quieti, vestrumque fide, prudentiâ justitia, et provida circumspeditione plenius confidentes, constituimus vos predictos,

Archiepiscopum Cantuariensem, dominum custodem magni sigilli nostri Anglie,

Eboracensem archiepiscopum, dominum thesaurarium nostrum Anglie, dominum custodem privati sigilli nostri, comitem marescallum Anglie,

Edwardum Comitem Dorchestrie, Franciscum Dominum Cottington, Thomam Edmonds Militem, Henricum Vane Militem, Johannem Coke Militem, et Franciscum Windebank Militem, & quoslibet quinque vel plures vestrum commissarios nostros & vobis & quibuslibet quinque vel pluribus vestrum damus & committimus potestatem ad regimen & tutamen dictarum coloniarum deductarum vel que gentis Anglicane in posterum fuerint in partibus hujusmodi deducte, leges, constitutiones et ordinationes, seu

ad publicum coloniarum illarum statum, seu ad privatam singulorum utilitatem pertinentes, eorumque terras, bona, debita & successorem in eisdem partibus concernentes, ac qualiter invicem & erga principes externos eorumque populum; nos etiam & subditos nostros tam in partibus exteris quibus cunque; quam in mari in partes illas vel retrò navigando, se gerant, vel que ad sustentationem cleri, regimen vel curam animarum populi in partibus illis degentis, exercentis, congruas portiones in decimis, oblationibus, aliisque proventibus designando spectant, juxta sanas discretiones vestras in politicis & civilibus, & habito consilio duorum vel trium episcoporum, quos ad vos convocandos duxeritis necessarios in ecclesiasticis, & clero portiones designandi, condendi, faciendi, & edendi, ac in legum, constitutionum & ordinationum illarum violatores, penas & multas, impositionem, incarcerationem & aliam quamlibet coercionem, etiam si oporteat & delicti qualitas exigerit per membri vel vite privationem infligendas providere; cum potestate etiam (nostro adhibito assensu) gubernatores & prefectos coloniarum illarum a locis suis amovere ex causis que vobis legitime vise fuerint aliosque eorum loco constituere, ac de eis rationem prefecture & regiminis eorum exigere, & quos culpabiles inveneritis vel a loci privatione, multe impositione de bonis eorum in partibus illis levando, vel abdicatione à provinciis illis quibus presuerint, vel aliter secundum quantitatem delicti castigare, iudicesque & magistratus politicos & civiles ad causas civiles, & cum potestate & sub formâ, quâ vobis quinque vel pluribus vestrum videbitur expedire, ac iudices,

judices, magistratus & dignitates ad causas ecclesiasticas, & sub potestate & formâ que vobis quinque vel pluribus vestrum episcopis suffraganeis (archiepiscopo Cantuariensi protempore existenti consulto,) videbitur expedire, constituere & ordinare; curiasque, pretoria, & tribunalia tam ecclesiastica quam civilia, judiciorum formas & procedendi modos in eisdem, & ab eis appellandi in causis & negotiis tam criminalibus quam civilibus, personalibus, realibus & mixtis pretoriis, seu de equo & bono, constituendi, & que crimina, delicta vel excessus, contractus vel injurias ad forum ecclesiasticum, et que ad Forum civile & pretorium spectare debeant, determinare;

Provisio tamen, quod leges, ordinationes, & constitutiones hujusmodi executioni non mandentur, quo usque assensus noster eisdem adhibeatur regio in scriptis sub signetto nostro signatis, ad minus & hujusmodi assensu adhibito, eis que publice promulgatis in provinciis in quibus sint exequende, leges, ordinationes, & constitutiones illas plenarie juris firmitatem adipisci, & ab omnibus quorum interesse poterit inviolabiliter observari, volumus & mandamus; liceat tamen vobis quinque vel pluribus vestrum, ut predictum est, leges, constitutiones & ordinationes sic edendas, licet promulgate fuerint, assensu nostro regio, mutare, revocare & abrogare, aliasque novas in forma predicta de tempore in tempus facere & edere, ut predictum est, novisque emergentibus malis vel periculis nova apponere remedia, prout decet, toties quoties expediens vobis videbitur et necessarium;

Sciatis ulterius, quod constituimus vos & quoslibet quinque & plures vestrum, prefatos Willielmum archiepiscopum Cantuariensem; Thomam dominum Coventrie—, magni sigilli nostri Anglie custodem. Ricardum Eboracensem archiepiscopum, dominum thesaurarium, Henricum comitem Manchester, Thomam comitem Arundelle & Surrie, Edward comitem Dorchestrie, Franciscum dominum Cottington; Thomam Edmonds militem; Henricum Vane militem, Johannem Cooke militem, et Franciscum Windebanke militem, commissionarios nostros, ad audiendum & terminandum, juxta sanas discretionones vestras, omnimodas querelas sive contra colonias ipsas seu eorum prefectos vel gubernatores ad instantiam partis gravate, vel ad delationem de injuriis hinc vel inde inter ipsas vel ipsorum membra aliquod illatis movendas, partisque coram vobis evocare, ac partibus vel eorum procuratoribus hinc et inde auditis; plenum justitie complementum exhibendum; dantes vobis & quibuslibet quinque vel pluribus vestrum, quod si quas coloniarum predictarum vel aliquem prefectorum eorum ditiones alienas injuste possidendo, vel usurpando vel invicem seipsos gravando, seu nobis rebelles a fide nostra subtrahendo, aut mandatis nostris non obtemperantes inveneritis, nobis prius in hac parte consultis, colonias hujusmodi & prefectos eorum ob causas predictas, vel aliis justis de causis, vel in Angliam redire, aut ad alia loca designanda divertere mandare, prout secundum sanas discretionones vestras equum, justum vel necessarium videbitur;

Damus

Damus insuper vobis & quibuslibet quinque vel pluribus vestrum, potestatem & mandatum speciale, ad omnia, chartas literas patentes & rescripta regia, de regionibus, provinciis, insulis vel terris in partibus exteris colonias deducuntibus concessa, vobis duci facienda, iisque inspectis, si que eorum surreptivè vel indebitè obtenta, vel per eadem, privilegia, libertates vel prerogativa nobis & corone nostre vel principibus exteris nociva & prejudicialia, indulta vel concessa fuisset, vobis quinque vel pluribus vestrum innotescat, ea secundum legem & consuetudinem regni nostri Anglie, revocari, jubere; ceteraque agendi, quæ ad regimen salutare & tutamen coloniarum predictarum & subditorum nostrorum in eisdem residentium fuerint necessaria; et ideo vobis mandamus, quod circa premissa, ad dies & loca que ad hoc provideritis, diligentes sitis intendentes prout decet, precipiendo etiam & firmiter injungendo, damus in mandatis omnibus & singulis prefectis provinciarum, in quas colonie predictæ deductæ sint vel fuerint, & singulis de coloniis ipsis & aliis quorum in hac parte interest, quod vobis in premissis sint intendentes, mandatisque vestris in eisdem obtemperantes & obedi- entes, quoties et prout ex parte vestra fuerint requisiti, sub periculo incumbenti.

In cujus rei &c.

Teste rege apud Westmonasterium decimo die
Aprilis.

Per ipsum Regem.

Damus

F I N I S.

