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

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

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

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

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

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

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

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

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

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

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

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

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

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

That the colonies should bear a proportion of the public burthens is most reasonable; and that no article can be more properly charged with a duty than *Tea* is allowed, and was it to pay a pound for every penny of duty it is now charged with, it would have my hearty consent, as I entirely agree with those that think it would be better for the health and strength of the whole race of *Britain*, if no more of its debilitating juice was ever used amongst us. But the question now is, not the articles on which it is most expedient to lay duties, but to whom *the right* of imposing all duties on the colonies belongs. If the house of commons can grant to the crown, a sum of money to be collected from the people in *America* by a duty upon tea, the house of commons can also grant a duty upon every barrel of flower, or any other necessary of life, shipped
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or landed in any of the colonies; and if they can do this; the same right extends to taxes upon land, houses, or the head of every man in the colonies: so that if the house of commons, can grant a duty to be collected in the colonies upon any *one* article, it follows that they have the same right upon *every* article, and the powers granted to the legislative bodies of the colonies, becomes merely nominal so far as relates to taxation; as they can have no *exclusive right* in that, which another may interfere with at pleasure. And the people in the colonies who are bound to render obedience to the acts of their own legislature, become amenable to a double legislative authority.—Government at home hears of the designs of its enemies to attack *America*, parliament is assembled, and the house of commons grants additional duties to be raised in the colonies to pay for their own defence. At the same time the colonies are surprized with the appearance of the enemy, the governor calls the assembly, and asks for an immediate supply, (as we see by the very last accounts from *South-Carolina* the governor of that province had been obliged to do) by this means, as soon as the act of parliament reaches *America*, a second supply must be raised for
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the same service, unless a suspending power interferes, to prevent the act of parliament's being carried into execution till it can be repealed at home. This and many other perplexities would be the natural consequence of a double legislative authority, in the constant exercise of the same power; besides the numerous train of inconveniences that would ever arise, from taxes being laid by those, that were at so great a distance from the people who were to pay them.

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

protection from all foreign enemies, whether they contribute to the charge of it or not. But has not the crown, by the governor of each province, the same opportunity of laying the subjects in the colonies, under an equal necessity of granting supplies, that it has over the people within the realm? Certainly it has, and the colonies have the same inducement at this day, to contribute to the support of government, as the people of *England* have had, ever since the first settlement of the legislature: the necessity for doing it is the same, and therefore the inclination may reasonably be supposed to be equal. The people of *England* would be as glad to keep their money in their pockets as the people in *America*, could they enjoy the benefits of an excellent form of government, without contributing to the expence of maintaining it; but that being impossible, it is not then a matter that inclination is to decide, but interest and necessity. And every subject may say, as Mr. *Hamden* is said to have done to the King, when his majesty condescended to reason with him, upon his refusal to pay so small a tax as that of *Ship-money*. He answered, if his representatives thought it necessary that he should give one half of his estate, he would readily part with it, if it was to protect him in the safe
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enjoyment of the other half. And if any thing is to be taken from the colonies, without the consent of their own representatives, then the people can no longer know the purposes for which the aids are required of them, and if they do not choose those, that give the authority for taking away part of their property, then they hold the remainder by mere grace and favour: for it cannot be said that they have any property in that, which another whom they have never seen, can grant away at pleasure. And if the house of commons has the right of granting a single shilling to the crown, to be raised by a tax to be collected of the people in *America*, the house of commons has an equal right to dispose of any other proportion of their property; and therefore the people of the colonies have their property no longer secured to them, in the manner our constitution intended every subject should have; as they cannot be said to hold their possessions under the protection of the laws, when they have not a single voice in making any one law that affects their property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusion

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

is still the same. The privileges given to the people that went to *America*, are a copy of the more ancient rights possessed by those that remained at home, with no other difference than was necessary to make them apply to their situation and distance. Their persecutions have been as similar as their privileges, and the sense of the legislature is alike in both. And when parliament itself was borne down for a season, as soon as it recovers its force, we see it holding out the same protection to the rights of the people in *America* as those in *England*. The periods at which representation is united to taxation in *England*, are intermixed with the times of allowing the same privilege to the people in *America*. And the exercise of these privileges in the colonies, exactly corresponds with the use made of them at home, and the whole of these acts are one uniform comment upon the constitution, that ordained wherever its influence reached, that to choose representatives and to be taxed were inseparable rights. The ancient charters and statutes that form the limits of every branch of our legislature, have sown the seeds of *representation* and *taxation* upon the same ground, and every subsequent act has transplanted them together ;

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and wherever we meet with them, whether it is in *Wales, Chester, Durham, Scotland, Ireland* or the *Colonies*, we find those kindred plants growing up in each others embraces; and by repeated laws, the hands of the legislature have twisted every fibre of their extended branches together. And whoever attempts to separate them, his labours ultimately tend to raise the funeral pile of the constitution. For if ever an extensive district of the king's dominions, is to be taxed by any other authority, than the representatives their several constitutions have given them the right of choosing, it destroys their strongest motive of union, and the state must become weak, in proportion to the consequence of that part of it, that is denied the free communication of those privileges, that are the life, health, and strength of the whole body. And probably it would not be so fatal to the state, was the right to tax themselves denied to the whole people at once: for then every man would feel himself in the same situation with his fellow subject in any other part of the dominions. But when one district is made to submit to an abridgment of the general rights of all, whether it be *Scotland, Ireland* or *America*, the people of that district

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

F I N I S.

A
FEW THOUGHTS
ON
SLAVERY.

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

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

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

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

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

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