NOVANGLUS,

AND

MASSACHUSETTENSIS;

OR

POLITICAL ESSAYS,

PUBLISHED

IN THE YEARS 1774 AND 1775,

ON THE PRINCIPAL POINTS OF CONTROVERSY, BETWEEN GREAT BRITAIN AND HER COLONIES.

THE FORMER BY

JOHN ADAMS,

LATE PRESIDENT OF THE UNITED STATES;

THE LATTER BY

JONATHAN SEWALL,

THEN KING'S ATTORNEY GENERAL OF THE PROVINCE OF MASSACHUSETTS BAY.

The Project Gutenberg eBook of Novanglus, and Massachusettensis

This eBook is for the use of anyone anywhere in the United States and most other parts of the world at no cost and with almost no restrictions whatsoever. You may copy it, give it away or re-use it under the terms of the Project Gutenberg License included with this eBook or online at www.gutenberg.org. If you are not located in the United States, you will have to check the laws of the country where you are located before using this eBook.

Title: Novanglus, and Massachusettensis

Author: John Adams
Daniel Leonard

Release date: March 25, 2014 [eBook #45205]
Most recently updated: October 24, 2024

Language: English

Other information and formats: www.gutenberg.org/ebooks/45205

Credits: Produced by Gary Rees, Linda Cantoni, and the Online
Distributed Proofreading Team at http://www.pgdp.net (This
file was produced from images

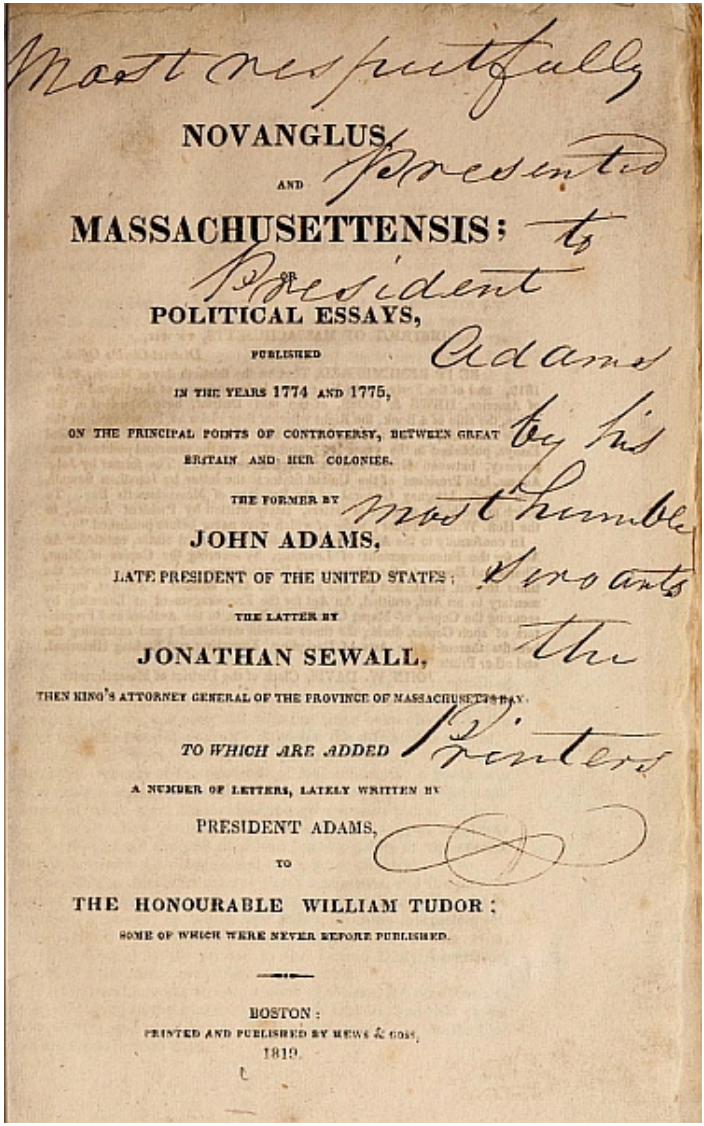
generously made available
by The Internet Archive/American Libraries.)

*** START OF THE PROJECT GUTENBERG EBOOK NOVANGLUS, AND MASSACHUSETTENSIS ***

Transcriber's Notes: Obvious printer errors have been corrected without note; obsolete and inconsistent spelling, punctuation, hyphenation, and capitalization have been preserved as they appear in the original. Errors that appear in the original Errata list are linked to that list. Less obvious errors are marked with red dotted underlining; hover your mouse over the text to see a Transcriber's Note. These errors are also listed in a Transcriber's Errata List at the end of this e-book.

A table of contents has been added for the reader's convenience.

This e-book was created from a presentation copy from the printers to John Adams, now in the John Adams Library at the Boston Public Library, and available in digitized form at the Internet Archive.



Most respectfully

NOVANGLUS

AND

MASSACHUSETTENSIS;

OR

POLITICAL ESSAYS,

PUBLISHED

IN THE YEARS 1774 AND 1775,

ON THE PRINCIPAL POINTS OF CONTROVERSY, BETWEEN GREAT BRITAIN AND HER COLONIES.

THE FORMER BY

JOHN ADAMS,

LATE PRESIDENT OF THE UNITED STATES;

THE LATTER BY

JONATHAN SEWALL,

THEN KING'S ATTORNEY GENERAL OF THE PROVINCE OF MASSACHUSETTS BAY.

TO WHICH ARE ADDED

A NUMBER OF LETTERS, LATELY WRITTEN BY

PRESIDENT ADAMS,

TO

THE HONOURABLE WILLIAM TUDOR;

SOME OF WHICH WERE NEVER BEFORE PUBLISHED.

BOSTON:

PRINTED AND PUBLISHED BY NEWS & GOSS,

1819.

presented to President Adams by his most humble Servants

the Printers

NOVANGLUS,

AND

MASSACHUSETTENSIS;

OR

POLITICAL ESSAYS,

PUBLISHED

IN THE YEARS 1774 AND 1775,

ON THE PRINCIPAL POINTS OF CONTROVERSY, BETWEEN GREAT BRITAIN AND HER COLONIES.

THE FORMER BY

JOHN ADAMS,

LATE PRESIDENT OF THE UNITED STATES;

THE LATTER BY

JONATHAN SEWALL,

THEN KING'S ATTORNEY GENERAL OF THE PROVINCE OF MASSACHUSETTS BAY.

TO WHICH ARE ADDED

A NUMBER OF LETTERS, LATELY WRITTEN BY

PRESIDENT ADAMS,

TO

THE HONOURABLE WILLIAM TUDOR;

SOME OF WHICH WERE NEVER BEFORE PUBLISHED.

BOSTON:
PRINTED AND PUBLISHED BY HEWS & GOSS,
1819.

DISTRICT OF MASSACHUSETTS,
TO WIT,

District Clerk's Office.

BE IT REMEMBERED, That on the thirtieth day of March, A. D. 1819, and of the Forty-fourth Year of the Independence of the United States of America, HEWS & GOSS, of the said District, have deposited in this Office, the title of a Book, the Right whereof they claim as Proprietors, in the words following, to wit:—"Novanglus and Massachusettensis; or Political Essays, published in the years 1774 and 1775, on the principal points of controversy, between Great Britain and her colonies. The former by John Adams, late President of the United States; the latter by Jonathan Sewall, then king's Attorney General of the Province of Massachusetts Bay. To which are added a number of letters, lately written by President Adams, to the Hon. William Tudor; some of which were never before published."

In conformity to the Act of the Congress of the United States, entitled "An Act for the Encouragement of Learning, by securing the Copies of Maps, Charts and Books, to the Authors and Proprietors of such Copies, during the times therein mentioned;" and also to an Act, entitled "An Act, supplementary to an Act,

entitled, An Act for the Encouragement of Learning, by securing the Copies of Maps, Charts and Books, to the Authors and Proprietors of such Copies, during the times therein mentioned; and extending the benefits thereof to the Arts of Designing, Engraving and Etching Historical and other Prints."

JOHN W. DAVIS, Clerk of the District of Massachusetts.

CONTENTS

To the Public
Errata
Preface
Novanglus
Massachusettensis
Letters of John Adams

TO THE PUBLIC.

FOR the last twenty years, our political opinions have partaken so much of feeling, in the contest between the two great European rivals, that the happiness, the interests, and even the character of

America seem to have been almost forgotten. But the spirit of party has now most happily so far subsided, that a disposition to look into, and examine the history of our own dear country, and its concerns, very generally prevails. Perhaps there is no part of that history, that is more interesting, than the controversy between Great Britain and her colonies, which produced the war of the revolution, and their final separation.

It is important, that the rising generation should be well acquainted with the principles and justice of that cause, which eventuated in our Independence, and to which we are indebted for our present envied state of prosperity and happiness.

The principles of that controversy were ably discussed by various writers, both in England and America; but it has been supposed, that the sentiments and conduct of each party were more elaborately displayed, in certain essays published in Boston, a short time previous to the commencement of hostilities, over the signatures of *Novanglus* and *Massachusettensis*, than in any other productions whatever.

The former were written by JOHN ADAMS, then a distinguished citizen of Boston, one of the noblest assertors of the rights and privileges of the colonies, and who has since been elected to the most important and honourable offices in the gift of the nation.

The latter were written by JONATHAN SEWALL, then king's Attorney General of the province of Massachusetts; a gentleman of education and talents —the champion—and possessing the confidence of what were then called the government party.

By an attentive perusal of these essays, a correct judgment may be formed of all the principal and leading points of the controversy, between the colonies and the mother country.

Confiding in the correctness of these sentiments, and the patronage of an enlightened public, we have re-published the above mentioned essays; to which are added, all those interesting letters, written by President ADAMS, and addressed to the Hon. WILLIAM TUDOR, lately printed in the Boston Daily Advertiser, together with others never before published.

The venerable and patriotic author of *Novanglus*, now lives to behold and enjoy the blessed fruits of his labours, and that of his compatriots, and possesses, in the highest degree, the intellect of his most intellectual days.

In offering this volume to the public, we please ourselves with the hope, that it will be a valuable acquisition to all classes of citizens, who wish to become acquainted with those principles of civil liberty, for which our ancestors so nobly, and so successfully contended. To the gentlemen of the bar, to legislators, and to politicians generally, we conceive it will be an inestimable treasure.

We are forcibly impressed with the wonderful effect the essays of Novanglus must have produced, in the times in which they were published, by convincing the great body of the people, that the *parliament* of Great Britain had no right to tax the colonies in America. But in reflecting on the CONSEQUENCES of that glorious revolution which these essays greatly tended to produce, the mind is imperatively drawn

to a contemplation of the present political condition of Europe. Representative governments are gradually introducing themselves into every part of that country; and we hope the day is not far distant, when the whole world shall be emancipated from tyranny. As AMERICANS we feel a *conscious* pride, that the resistance which our ancestors made to the arbitrary machinations of an Hutchinson, a Bute, a Mansfield and a North, will terminate in the civil and political freedom of ALL MANKIND.

HEWS & GOSS.

BOSTON, JULY 1, 1819.

ERRATA.

PAGE	LINE.	
24	26	from the top, for *procreations*, read *procurations*.
32	14	from the top, for *terms* read *terrors*.
	18	from the bottom, read *more* after *much*.
44	9	from the top, for *their* read *these*.
55	20	from the top, for *shewing* read *knowing*.
69	1	from the bottom, for *articles* read *artifices*.
100	12	from the top, for *knew* read *know*, and for *know* read *knew*.
100	2	from the bottom, for *amity* read *anxiety*.
120	7	from the bottom, *dele-suo*.
120	6	from the bottom, for *compact* read *conquest*.

240 8 from the bottom, for *expected* read *respected.*

PREFACE.

JONATHAN SEWALL was descended from Mitchills and Hulls and Sewalls, and I believe Higginsons, *i. e.* from several of the ancient and venerable of New England families. But, as I am no genealogist, I must refer to my aged classmate and highly esteemed friend Judge Sewall of York, whose researches will, one day, explain the whole.

Mr. SEWALL's father was unfortunate; died young, leaving his son destitute; but as the child had discovered a pregnant genius, he was educated by the charitable contribution of his friends, of whom Dr. Samuel Cooper was one of the most active and successful, among his opulent parishoners. Mr. SEWALL graduated at college in 1748; kept a Latin school in Salem, till 1756, when Chambers Russell, of Lincoln, a Judge of the Supreme Court and a Judge of Admiralty, from a principle of disinterested benevolence, received him into his family; instructed him in law; furnished him with books and introduced him to the practise at the bar. In 1757 and 1758, he attended the Supreme Court in Worcester, and spent his evenings with me in the office of Colonel James Putnam, a gentleman of great acuteness of mind, and very extensive and successful in practise, and an able lawyer; in whose family I boarded and under whose

auspices I studied law. Here commenced between Mr. SEWALL and me, a personal friendship, which continued, with none but political interruptions, till his death. He commenced practice in Charlestown, in the County of Middlesex, I, in that parish of the ancient town of Braintree, now called Quincy, then in the County of Suffolk, now of Norfolk. We attended the Courts in Boston, Cambridge, Charlestown, and Concord; lived together, frequently slept in the same chamber, and not seldom, in the same bed. Mr. SEWALL was then a patriot; his sentiments were purely American. To James Otis, who took a kind notice of us both, we constantly applied for advice in any difficulty, and he would attend to us, advise us, and look into books for us, and point out authorities to us, as kindly as if we had been his pupils or his sons.

After the surrender of Montreal in 1759, rumours were every where spread that the English would now new model the Colonies, demolish the charters and reduce all to royal governments. These rumours I had heard as often as he had. One morning I met him, accidentally, on the floor of the old Town House. "John" said he, "I want to speak with you;" he always called me John, and I him Jonathan, and often said to him, I wish my name were David. He took me to a window seat and said; "these Englishmen are going to play the devil with us. They will overturn every thing. We must resist them and that by force. I wish you would write in the Newspapers, and urge a general attention to the Militia, to their exercises and discipline, for we must resist in arms." I answered, "All this I fear is true; but why do you not write yourself? You are older than I am; have more experience than I have, are more intimate with the grandees than I am, and you can

write ten times better than I can." There had been a correspondence between us, by which I knew his refined style as well as he knew my coarse one. "Why," said Mr. SEWALL, "I would write, but Goffe will find me out and I shall grieve his righteous soul, and you know what influence he has in Middlesex." This Goffe had been Attorney General for twenty years, and commanded the practise in Middlesex and Worcester and several other Counties. He had power to crush, by his frown or his nod any young Lawyer in his County. He was afterwards Judge Trowbridge, but at that time as ardent as any of Hutchinson's disciples, though he afterwards became alienated from his pursuits and principles.

In December 1760, or January 1761, Stephen Sewall, Chief Justice died, deeply lamented, though insolvent. My friend JONATHAN, his nephew, the son of his brother, who tenderly loved and deeply revered his uncle, could not bear the thought, that the memory of the Chief Justice should lie under the imputation of bankruptcy. At that time bankruptcy was infamous; now it is scarcely disgraceful. JONATHAN undertook the administration of his uncle's estate. Finding insolvency inevitable, he drew a petition to the General Court to grant a sum of money, sufficient, to pay the Chief Justice's debts. If my friend had known the character of his countrymen, or the nature of that Assembly, he never would have conceived such a project; but he did conceive it and applied to James Otis, and his father, Colonel Otis, to patronize and support it. The Otis's knew their countrymen better than he did. They received and presented the petition, but without much hope of success. The petition was rejected, and my friend SEWALL conceived a suspicion, that it was not promoted with so much zeal, by the Otis's, as he

thought they might have exerted. He imputed the failure to their coldness; was much mortified and conceived a violent resentment, which he expressed with too much freedom and feeling in all companies.

Goffe, Hutchinson and all the courtiers soon heard of it and instantly fastened their eyes upon SEWALL; courted his society; sounded his fame; promoted his practise, and soon after made him Solicitor General by creating a new office, expressly for him. Mr. SEWALL, had a soft, smooth, insinuating eloquence, which gliding imperceptibly into the minds of a Jury, gave him as much power over that tribunal as any lawyer ought ever to possess. He was also capable of discussing before the court, any intricate question of law, which gave him, at least, as much influence there as was consistent with an impartial administration of justice. He was a gentleman and a scholar; had a fund of wit, humour and satire, which he used with great discretion at the bar, but poured out with unbounded profusion in the newspapers. Witness his voluminous productions in the newspapers, signed *long J.* and *Philanthropos*. These accomplishments richly qualified him to serve the purposes of the gentlemen, who courted him into their service.

Mr. SEWALL soon fell in love with Miss Esther Quincy, the fourth daughter of Edmund Quincy, Esq. an eminent merchant and magistrate, and a grand daughter of that Edmund Quincy, who was eighteen years a Judge of the Superior Court, who died of the small pox in the agency of the province at the Court of St. James's, and whose monument was erected, at the expense of the Province, in Bun-hill-fields, London. This young lady, who was celebrated for her beauty, her vivacity and spirit, lived with her father

in this parish, now called Quincy. Mr. SEWALL's courtship was extended for several years, and he came up very constantly on Saturdays and remained here until Mondays; and I was sure to be invited to meet him on every Sunday evening. During all these years, there was a constant correspondence between us, and he concealed nothing from me, so that I knew him by his style whenever he appeared in print.

In 1766, he married the object of his affections, and an excellent wife he found her. He was soon appointed Attorney General. In 1768, he was employed by Governor Barnard to offer me the office of Advocate General, in the Court of Admiralty, which I decidedly and peremptorily though respectfully refused.

We continued our friendship and confidential intercourse, though professedly in boxes of politics, as opposite as East and West, until the year 1774, when we both attended the Superior Court in Falmouth, Casco-bay, now Portland. I had then been chosen a delegate to Congress. Mr. SEWALL invited me to take a walk with him, very early in the morning, on the great hill. In the course of our rambles he very soon begun to remonstrate against my going to Congress. He said "that Great Britain was determined on her system; her power was irresistible and would certainly be destructive to me, and to all those who should persevere in opposition to her designs." I answered, "that I knew Great Britain was determined on her system, and that very determination, determined me on mine; that he knew I had been constant and uniform in opposition to all her measures; that the die was now cast; I had passed the Rubicon; swim or sink, live or die, survive or

perish with my country, was my unalterable determination." The conversation was protracted into length, but this was the substance of the whole. It terminated in my saying to him, "I see we must part, and with a bleeding heart I say, I fear forever; but you may depend upon it, this adieu is the sharpest thorn on which I ever sat my foot." I never conversed with him again 'till the year 1788. Mr. SEWALL retired in 1775 to England, where he remained and resided in Bristol.

On my return from Congress in the month of November 1774, I found the Massachusetts Gazette teeming with political speculations, and Massachusettensis shining like the moon among the lesser stars. I instantly knew him to be my friend SEWALL, and was told he excited great exultation among the tories and many gloomy apprehensions among the whigs. I instantly resolved to enter the lists with him, and this is the history of the following volume.

In 1788, Mr. SEWALL came to London to embark for Halifax. I enquired for his lodgings and instantly drove to them, laying aside all etiquette, to make him a visit. I ordered my servant to announce John Adams, was instantly admitted, and both of us forgetting that we had ever been enemies, embraced each other as cordially as ever. I had two hours conversation with him in a most delightful freedom upon a multitude of subjects. He told me he had lived for the sake of his two children; he had spared no pains nor expense in their education, and he was going to Halifax in hope of making some provision for them. They are now two of the most respectable gentlemen in Canada. One of them a Chief Justice; the other an Attorney General. Their father lived but

a short time after his return to America; evidently broken down by his anxieties and probably dying of a broken heart. He always lamented the conduct of Great Britain towards America. No man more constantly congratulated me, while we lived together in America, upon any news, true or false, favorable to a repeal of the obnoxious Statutes and a redress of our grievances; but the society in which he lived had convinced him that all resistance was not only useless but ruinous.

More conscious than ever of the faults in the style and arrangement, if not in the matter of my part of the following papers, I shall see them in print with more anxiety than when they were first published. The principles however are those on which I then conscientiously acted, and which I now most cordially approve.

To the candour of an indulgent nation, whom I congratulate on their present prosperity and pleasing prospects, and for whose happiness I shall offer up my dying supplications to Heaven, I commit the volume with all its imperfections.

JOHN ADAMS.

Quincy, *January* 1, 1819.

ADDRESSED

To the Inhabitants of the Colony of Massachusetts Bay,

January 23, 1775.

MY FRIENDS,

A WRITER, under the signature of Massachusettensis, has addressed you, in a series of papers, on the great national subject of the present quarrel between the British administration and the Colonies. As I have not in my possession, more than one of his Essays, and that is in the Gazette of December 26, I will take the liberty, in the spirit of candor, and decency, to bespeak your attention, upon the same subject.

There may be occasion, to say very severe things, before I shall have finished what I propose, in opposition to this writer but there ought to be no reviling. *Rem ipsam dic, mitte male loqui*, which may be justly translated, speak out the whole truth boldly, but use no bad language.

It is not very material to enquire, as others have done, who is the author of the speculations in question. If he is a disinterested writer, and has nothing to gain or to lose, to hope or to fear, for himself more than other individuals of your community; but engages in this controversy from the purest principles, the noblest motives of benevolence to men, and of love to his country, he ought to have no influence with you, further than truth and justice will support his argument. On the other hand, if he

hopes to acquire or preserve a lucrative employment, to screen himself from the just detestation of his countrymen, or whatever other sinister inducement he may have, as far as the truth of facts and the weight of argument, are in his favor, he ought to be duly regarded.

He tells you "that the temporal salvation of this province depends upon an entire and speedy change of measures, which must depend upon a change of sentiments respecting our own conduct and the justice of the British nation."

The task, of effecting these great changes, this courageous writer, has undertaken in a course of publications in a newspaper. *Nil desperandum* is a good motto, and *Nil admirari*, is another. He is welcome to the first, and I hope will be willing that I should assume the last. The public, if they are not mistaken in their conjecture, have been so long acquainted with this gentleman, and have seen him so often disappointed, that if they were not habituated to strange things, they would wonder at his hopes, at this time to accomplish, the most unpromising project of his whole life. In the character of Philanthrop, he attempted to reconcile you to Mr. Bernard. But the only fruit of his labor was, to expose his client to more general examination, and consequently to more general resentment and aversion. In the character of Philalethes, he essayed to prove Mr. Hutchinson a patriot, and his letters not only innocent, but meritorious. But the more you read and considered, the more you were convinced of the ambition and avarice, the simulation and dissimulation, the hypocricy and perfidy of that destroying angel.

This illfated and unsuccessful, though persevering writer, still hopes to change your sentiments and conduct—by which it is supposed that he means to convince you that the system of Colony administration, which has been pursued for these ten or twelve years past, is a wise, righteous and humane plan; that sir Francis Bernard and Mr. Hutchinson, with their connections, who have been the principal instruments of it, are your best friends;—and that those gentle in this province, and in all the other Colonies, who have been in opposition to it, are from ignorance, error, or from worse and baser causes, your worst enemies.

This is certainly an inquiry that is worthy of you; and I promise to accompany this writer, in his ingenious labours to assist you in it. And I earnestly intreat you, as the result of all shall be, to change your sentiments or persevere in them, as the evidence shall appear to you, upon the most dispassionate and impartial consideration, without regard to his opinion or mine.

He promises to avoid personal reflections, but to penetrate the arcana, and expose the wretched policy of the whigs. The cause of the whigs is not conducted by intrigues at a distant court, but by constant appeals to a sensible and virtuous people; it depends intirely on their good will, and cannot be pursued a single step without their concurrence, to obtain which of all designs, measures, and means, are constantly published to the collective body. The whigs therefore can have no arcana; but if they had, I dare say they were never so left, as to communicate them to this writer; you will therefore be disappointed if you expect from him any thing which is true, but what has been as public as records and

newspapers could make it.

I, on my part, may perhaps in a course of papers, penetrate arcana too. Shew the wicked policy of the tories—trace their plan from its first rude sketches to its present complete draught. Shew that it has been much longer in contemplation, than is generally known,—who were the first in it—their views, motives and secret springs of action—and the means they have employed. This will necessarily bring before your eyes many characters, living and dead. From such a research and detail of facts, it will clearly appear, who were the aggressors—and who have acted on the defensive from first to last—who are still struggling, at the expense of their ease, health, peace, wealth and preferment, against the encroachments of the tories on their country—and who are determined to continue struggling, at much greater hazards still, and like the Prince of Orange, resolve never to see its entire subjection to arbitrary power, but rather to die fighting against it, in the last ditch.

It is true, as this writer observes, "that the bulk of the people are generally, but little versed in the affairs of State; that they left the affairs of government where accident has placed them." If this had not been true, the designs of the tories had been many years ago, entirely defeated. It was clearly seen, by a few, more than ten years since, that they were planning and pursuing the very measures, we now see executing. The people were informed of it, and warned of their danger: But they had been accustomed to confide in certain persons, and could never be persuaded to believe, until prophecy, became history. Now they see and feel, that the horrible calamities are come upon them, which were foretold so many years ago,

and they now sufficiently execrate the men who have brought these things upon them. Now alas! when perhaps it is too late. If they had withdrawn their confidence from them in season, they would have wholly disarmed them.

The same game, with the same success, has been played in all ages and countries as Massachusettensis observes. When a favourable conjuncture has presented, some of the most intrigueing and powerful citizens have conceived the design of enslaving their country, and building their own greatness on its ruins. Philip and Alexander, are examples of this in Greece—Cæsar in Rome—Charles the fifth in Spain—Lewis the eleventh in France—and ten thousand others.

"There is a latent spark in the breasts of the people capable of being kindled into a flame, and to do this has always been the employment of the disaffected." What is this latent spark? The love of Liberty? *a Deo hominis est indita naturæ.* Human nature itself is evermore an advocate for liberty. There is also in human nature, a resentment of injury, and indignation against wrong. A love of truth and a veneration for virtue.

These amiable passions, are the "latent spark" to which those whom this writer calls the "disaffected" apply. If the people are capable of understanding, seeing and feeling the difference between true and false, right and wrong, virtue and vice, to what better principle can the friends of mankind apply, than to the sense of this difference.

Is it better to apply as this writer and his friends do, to the basest passions in the human breast to their fear, their vanity, their avarice, ambition, and every

kind of corruption? I appeal to all experience, and to universal history, if it has ever been in the power of popular leaders, uninvested with other authority than what is conferred by the popular suffrage, to persuade a large people, for any length of time together, to think themselves wronged, injured, and oppressed, unless they really were, and saw and felt it to be so.

"They," the popular leaders, "begin by reminding the people of the elevated rank they hold in the universe as men; that all men by nature are equal; that kings are but the ministers of the people; that their authority is delegated to them by the people, for their good, and they have a right to resume it, and place it in other hands, or keep it themselves, whenever it is made use of to oppress them. Doubtless there have been instances, when these principles have been inculcated to obtain a redress of real grievances, but they have been much oftener perverted to the worst of purposes."

These are what are called revolution principles. They are the principles of Aristotle and Plato, of Livy and Cicero, and Sydney, Harrington and Locke. The principles of nature and eternal reason. The principles on which the whole government over us, now stands. It is therefore astonishing, if any thing can be so, that writers, who call themselves friends of government, should in this age and country, be so inconsistent with themselves, so indiscreet, so immodest, as to insinuate a doubt concerning them.

Yet we find that these principles stand in the way of Massachusettensis, and all the writers of his class. The veteran, in his letter to the officers of the army, allows them to be noble, and true, but says the

application of them to particular cases is wild and utopian. How they can be in general true, and not applicable to particular cases, I cannot comprehend. I thought their being true in general, was because they were applicable in most particular cases.

Gravity is a principle in nature. Why? because all particular bodies are found to gravitate. How would it sound to say, that bodies in general are heavy; yet to apply this to particular bodies and say, that a guinea, or a ball is heavy, is wild, &c.—"Adopted in private life," says the honest amiable veteran, "they would introduce perpetual discord." This I deny, and I think it plain, that there never was an happy private family where they were not adopted. "In the State perpetual discord." This I deny, and affirm that order, concord and stability in this State, never was or can be preserved without them. "The least failure in the reciprocal duties of worship and obedience in the matrimonial contract would justify a divorce." This is no consequence from those principles,—a total departure from the ends and designs of the contract it is true, as elopement and adultery, would by these principles justify a divorce, but not the least failure, or many smaller failures in the reciprocal duties, &c. "In the political compact, the smallest defect in the Prince a revolution"—By no means. But a manifest design in the Prince, to annul the contract on his part, will annul it on the part of the people. A settled plan to deprive the people of all the benefits, blessings and ends of the contract, to subvert the fundamentals of the constitution, to deprive them of all share in making and executing laws, will justify a revolution.

The author of a "Friendly Address to all reasonable Americans," discovers his rancour against these

principles, in a more explicit manner, and makes no scruples to advance the principles of Hobbs and Filmer, boldly, and to pronounce damnation, *ore rotundo*, on all who do not practice implicit passive obedience, to an established government, of whatever character it may be. It is not reviling, it is not bad language, it is strictly decent to say, that this angry bigot, this ignorant dogmatist, this foul mouthed scold, deserves no other answer than silent contempt. Massachusettensis and the veteran, I admire, the first for his art, the last for his honesty.

Massachusettensis, is more discreet than either of the others; sensible that these principles would be very troublesome to him, yet conscious of their truth, he has neither admitted nor denied them. But we have a right to his opinion of them, before we dispute with him. He finds fault with the application of them. They have been invariably applied in support of the revolution and the present establishment—against the Stuart's, the Charles' and the James',—in support of the reformation and the Protestant religion, against the worst tyranny, that the genius of toryism, has ever yet invented, I mean the Roman superstition. Does this writer rank the revolution and present establishment, the reformation and Protestant religion among his worst of purposes? What "worse purpose" is there than established tyranny? Were these principles ever inculcated in favor of such tyranny? Have they not always been used against such tyrannies, when the people have had knowledge enough to be apprized of them, and courage to assert them? Do not those who aim at depriving the people of their liberties, always inculcate opposite principles, or discredit these.

"A small mistake in point of policy," says he, "often

furnishes a pretence to libel government and persuade the people that their rulers are tyrants, and the whole government, a system of oppression." This is not only untrue, but inconsistent with what he said before. The people are in their nature so gentle, that there never was a government yet, in which thousands of mistakes were not overlooked. The most sensible and jealous people are so little attentive to government, that there are no instances of resistance, until repeated, multiplied oppressions have placed it beyond a doubt, that their rulers had formed settled plans to deprive them of their liberties; not to oppress an individual or a few, but to break down the fences of a free constitution, and deprive the people at large of all share in the government and all the checks by which it is limited. Even Machiavel himself allows, that not ingratitude to their rulers, but much love is the constant fault of the people.

This writer is equally mistaken, when he says, the people are sure to be loosers in the end. They can hardly be loosers, if unsuccessful; because if they live, they can but be slaves, after an unfortunate effort, and slaves they would have been, if they had not resisted. So that nothing is lost. If they die, they cannot be said to lose, for death is better than slavery. If they succeed, their gains are immense. They preserve their liberties. The instances in antiquity, which this writer alludes to, are not mentioned, and therefore cannot be answered, but that in the country from whence we are derived, is the most unfortunate for his purpose, that could have been chosen. The resistance to Charles the First and the case of Cromwell, no doubt he means. But the people of England, and the cause of liberty, truth,

virtue and humanity, gained infinite advantages by that resistance. In all human probability, liberty civil and religious, not only in England but in all Europe, would have been lost. Charles would undoubtedly have established the Romish religion and a despotism as wild as any in the world. And as England has been a principal bulwark from that period to this, of civil liberty and the Protestant religion in all Europe, if Charles' schemes had succeeded, there is great reason to apprehend that the right of science would have been extinguished, and mankind, drawn back to a state of darkness and misery, like that which prevailed from the fourth to the fourteenth century. It is true and to be lamented that Cromwell did not establish a government as free, as he might and ought; but his government was infinitely more glorious and happy to the people than Charles'. Did not the people gain by the resistance to James the second? Did not the Romans gain by the resistance to Tarquin? Throughout that resistance and the liberty that was restored by it, would the great Roman orators, poets and historians, the great teachers of humanity and politeness, the pride of human nature, and the delight and glory of mankind, for seventeen hundred years, ever have existed? Did not the Romans gain by resistance to the Decemvirs? Did not the English gain by resistance to John, when Magna Charta was obtained? Did not the seven united provinces gain by resistance to Philip, Alva, and Granvell? Did not the Swiss Cantons, the Genevans and Grissons, gain by resistance to Albert and Grisler?

NOVANGLUS.

ADDRESSED

To the Inhabitants of the Colony of Massachusetts Bay,

January 30, 1775.

MY FRIENDS,

I HAVE heretofore intimated my intention, of pursuing the tories, through all their dark intrigues, and wicked machinations; and to shew the rise, and progress of their schemes for enslaving this country. The honor of inventing and contriving these measures, is not their due. They have been but servile copiers of the designs of Andross, Randolph, Dudley, and other champions of their cause towards the close of the last century. These latter worthies accomplished but little; and their plans had been buried with them, for a long course of years, until in the administration of the late Governor Shirley, they were revived, by the persons who are now principally concerned in carrying them into execution. Shirley, was a crafty, busy, ambitious, intrigueing, enterprising man; and having mounted, no matter by what means, to the chair of this province, he saw, in a young growing country, vast prospects of ambition opening before his eyes, and he conceived great designs of aggrandizing himself, his family and his friends. Mr. Hutchinson and Mr. Oliver, the two famous letter writers, were his

principal ministers of State. Russell, Paxton, Ruggles, and a few others, were *subordinate* instruments. Among other schemes of this Junto, one was to have a Revenue in America by authority of Parliament.

In order to effect their purpose it was necessary to concert measures with the other Colonies. Dr. Franklin, who was known to be an active, and very able man, and to have great influence, in the province of Pennsylvania, was in Boston, in the year 1754, and Mr. Shirley communicated to him the profound secret, the great design of taxing the Colonies by act of Parliament. This sagacious gentleman, this eminent philosopher, and distinguished patriot, to his lasting honor, sent the Governor an answer in writing with the following remarks upon his scheme. Remarks which would have discouraged any honest man from the pursuit. The remarks are these:—

"That the people always bear the burden best, when they have, or think they have, some *share* in the direction.

"That when public measures are generally distasteful to the people, the wheels of government must move more heavily.

"That excluding the people of America from all share in the choice of a grand council for their own defence, and taxing them in Parliament, where they have no representative, would probably give extreme dissatisfaction.

"That there was no reason to doubt the willingness of the Colonists to contribute for their own defence. That the people themselves, whose all was at stake,

could better judge of the force necessary for their defence, and of the means for raising money for the purpose, than a British Parliament at so great distance.

"That natives of America, would be as likely to consult wisely and faithfully for the safety of their native country, as the Governors sent from Britain, whose object is generally to make fortunes, and then return home, and who might therefore be expected to carry on the war against France, rather in a way, by which themselves were likely to be gainers, than for the greatest advantage of the cause.

"That compelling the Colonies to pay money for their own defence, without their consent, would shew a suspicion of their loyalty, or of their regard for their country, or of their common sense, and would be treating them as conquered enemies, and not as free Britains, who hold it for their undoubted right not to be taxed by their own consent, given through their representatives.

"That parliamentary taxes, once laid on, are often continued, after the necessity for laying them on, ceases; but that if the Colonists were trusted to tax themselves, they would remove the burden from the people, as soon as it should become unnecessary for them to bear it any longer.

"That if Parliament is to tax the Colonies, their assemblies of representatives may be dismissed as useless.

"That taxing the Colonies in Parliament for their own defence against the French, is not more just, than it would be to oblige the cinque ports, and other parts of Britain, to maintain a force against France, and to

tax them for this purpose, without allowing them representatives in Parliament.

"That the Colonists have always been indirectly taxed by the mother country (besides paying the taxes necessarily laid on by their own assemblies) inasmuch as they are obliged to purchase the manufactures of Britain, charged with innumerable heavy taxes; some of which manufactures they could make, and others could purchase cheaper at other markets.

"That the Colonists are besides taxed by the mother country, by being obliged to carry great part of their produce to Britain, and accept a lower price, than they might have at other markets. The difference is a tax paid to Britain.

"That the whole wealth of the Colonists centres at last in the mother country, which enables her to pay her taxes.

"That the Colonies have, at the hazard of their lives and fortunes, extended the dominions, and increased the commerce and riches of the mother country, that therefore the Colonists do not deserve to be deprived of the native right of Britons, the right of being taxed only by representatives chosen by themselves.

"That an adequate representation in parliament would probably be acceptable to the Colonists, and would best raise the views and interests of the whole empire."

The last of these propositions seems not to have been well considered, because an adequate representation in parliament, is totally impracticable; but the others have exhausted the subject. If any one should ask

what authority or evidence I have of this anecdote, I refer to the second volume of the Political Disquisitions, page 276, 7, 8, 9. A book which ought to be in the hands of every American who has learned to read.

Whether the ministry at home or the junto here, were discouraged by these masterly remarks, or by any other cause, the project of taxing the Colonies was laid aside. Mr. Shirley was removed from this government, and Mr. Pownal was placed in his stead.

Mr. Pownal seems to have been a friend to liberty and to our Constitution, and to have had an aversion to all plots against either, and consequently to have given his confidence to other persons than Hutchinson and Oliver, who, stung with envy against Mr. Pratt and others, who had the lead in affairs, set themselves, by propagating slanders against the Governor, among the people, and especially among the clergy, to raise discontents, and make him uneasy in his seat. Pownal averse to wrangling, and fond of the delights of England, solicited to be recalled, and after some time Mr. Bernard was removed from New Jersey to the chair of this Province.

Bernard was the man for the purpose of the junto; educated in the highest principles of monarchy, naturally daring and courageous, skilled enough in law and policy to do mischief, and avaricious to a most infamous degree; needy at the same time, and having a numerous family to provide for,—he was an instrument, suitable in every respect, excepting one, for this junto, to employ. The exception I mean, was blunt frankness, very opposite to that cautious cunning, that deep dissimulation, to which they had by long practice disciplined themselves. However,

they did not despair of teaching him this necessary artful quality by degrees, and the event shewed they were not wholly unsuccessful, in their endeavors to do it.

While the war lasted, these simple Provinces were of too much importance in the conduct of it, to be disgusted, by any open attempt against their liberties. The junto therefore, contented themselves with preparing their ground by extending their connection and correspondencies in England, and by conciliating the friendship of the crown officers occasionally here, and insinuating their designs as necessary to be undertaken in some future favorable opportunity, for the good of the empire, as well as of the Colonies.

The designs of Providence are inscrutable. It affords to bad men conjunctures favourable for their designs, as well as to good. The conclusion of the peace, was the most critical opportunity for our junto, that could have presented. A peace founded on the destruction of that system of policy, the most glorious for the nation, that ever was formed, and which was never equalled in the conduct of the English government, except in the interregnum, and perhaps in the reign of Elizabeth; which system however, by its being abruptly broken off and its chief conductor discarded before it was completed, proved unfortunate to the nation by leaving it sinking in a bottomless gulf of debt, oppressed and borne down with taxes.

At this lucky time, when the British financier, was driven out of his wits for ways and means, to supply the demands upon him, Bernard is employed by the junto, to suggest to him the project of taxing the Colonies by act of Parliament.

I do not advance this without evidence. I appeal to a publication made by Sir Francis Bernard himself, the last year of his own select letters on the trade and government of America, and the principles of law and polity applied to the American Colonies. I shall make much use of this pamphlet before I have done.

In the year 1764, Mr. Bernard transmitted home to different noblemen, and gentlemen, four copies of his principles of law and polity, with a preface, which proves incontestibly, that the project of new regulating the American Colonies were not first suggested to him by the ministry, but by him to them. The words of this preface are these:—"The present expectation, that a new regulation of the American governments will soon take place, probably arises more from the opinion the public has of the abilities of the present ministry, than from any thing that has transpired from the cabinet; it cannot be supposed that their penetration can overlook the necessity of such a regulation, nor their public spirit fail to carry it into execution. But it may be a question, whether the present is a proper time for this work; more urgent business may stand before it, some preparatory steps may be required to precede it; but these will only serve to postpone. As we may expect that this reformation, like all others, will be opposed by powerful prejudices, it may not be amiss to reason with them at leisure, and endeavor to take off their force before they become opposed to government."

These are the words of that arch enemy of North America, written in 1764, and then transmitted to four persons, with a desire that they might be communicated to others.

Upon these words, it is impossible not to observe, first, That the ministry had never signified to him, any intention of new regulating the Colonies; and therefore, that it was he who most officiously and impertinently put them upon the pursuit of this *will with a whisp*, which has led him and them into so much mire. 2. The artful flattery with which he insinuates these projects into the minds of the ministry, as matters of absolute necessity, which their great penetration could not fail to discover, nor their great regard to the public, omit. 3. The importunity with which he urges a speedy accomplishment of his pretended reformation of the governments, and 4. His consciousness that these schemes would be opposed, although he affects to expect from powerful prejudices only, that opposition, which all Americans say, has been dictated by sound reason, true policy, and eternal justice. The last thing I shall take notice of is, the artful, yet most false and wicked insinuation, that such new regulations were then generally expected. This is so absolutely false, that excepting Bernard himself, and his junto, scarcely any body on this side the water had any suspicion of it,—insomuch that if Bernard had made public, at that time, his preface and principles, as he sent them to the ministry, it is much to be doubted whether he could have lived in this country—certain it is, he would have had no friends in this province out of the junto.

The intention of the junto, was, to procure a revenue to be raised in America by act of parliament. Nothing was further from their designs and wishes, than the drawing or sending this revenue into the exchequer in England to be spent there in discharging the national debt, and lessening the burdens of the poor people there. They were more selfish. They chose to

have the fingering of the money themselves. Their design was, that the money should be applied, first in a large salary to the governor. This would gratify Bernard's avarice, and then it would render him and all other governors, not only independent of the people, but still more absolutely a slave to the will of the minister. They intended likewise a salary for the lieutenant governor. This would appease in some degree the gnawings of Hutchinson's avidity, in which he was not a whit behind Bernard himself. In the next place, they intended a salary to the judges of the common law, as well as admiralty. And thus the whole government, executive and judicial, was to be rendered wholly independent of the people, (and their representatives rendered useless, insignificant and even burthensome) and absolutely dependant upon, and under the direction of the will of the minister of State. They intended further to new model the whole continent of North America, make an entire new division of it, into distinct, though more extensive and less numerous Colonies, to sweep away all the charters upon the continent, with the destroying besom of an act of parliament, and reduce all the governments to the plan of the royal governments, with a nobility in each Colony, not hereditary indeed, at first, but for life. They did indeed flatter the ministry and people in England, with distant hopes of a revenue from America, at some future period, to be appropriated to national uses there. But this was not to happen in their minds for some time. The governments must be new modelled, new regulated, reformed first and then the governments here would be able and willing to carry into execution any acts of Parliament or measures of the ministry, for fleecing the people here, to pay debts, or support pensioners, on the American

establishment, or bribe electors, or members of parliament, or any other purpose that a virtuous ministry could desire.

But as ill luck would have it, the British financier, was as selfish as themselves, and instead of raising money for them, chose to raise it for himself. He put the cart before the horse. He chose to get the revenue into the exchequer, because he had hungry cormorants enough about him in England whose *cooings* were more troublesome to his ears, than the croaking of the ravens in America. And he thought if America could afford any revenue at all, and he could get it by authority of parliament, he might have it himself, to give to his friends, as well as raise it for the junto here, to spend themselves, or give to theirs. This unfortunate preposterous improvement of Mr. Grenville, upon the plan of the junto, had well nigh ruined the whole.

I will proceed no further without producing my evidence. Indeed to a man who was acquainted with this junto, and had any opportunity to watch their motions, observe their language, and remark their countenances, for these last twelve years, no other evidence is necessary; it was plain to such persons, what this junto was about. But we have evidence enough now under their own hands of the whole of what was said of them by their opposers, through this whole period.

Governor Bernard, in his letter July 11, 1764, says, "that a general reformation of the American governments would become not only a desirable but a necessary measure." What his idea was, of a general reformation of the American governments, is to be learnt from his principles of law and polity,

which he sent to the ministry in 1764. I shall select a few of them in his own words; but I wish the whole of them could be printed in the newspapers, that America might know more generally the principles and designs and exertions of our junto.

His 29th proposition is, "The rule that a British subject shall not be bound by laws, or liable to taxes, but what he has consented to, by his representatives, must be confined to the inhabitants of Great Britain only; and is not strictly true even there. 30. The parliament of Great Britain, as well from its rights of sovereignty, as from occasional exigences, has a right to make laws for and impose taxes upon its subjects in its external dominions, although they are not represented in such parliament. But 31. Taxes imposed upon the external dominions, ought to be applied to the use of the people, from whom they are raised. 32. The parliament of Great Britain has a right and duty to take care to provide for the defence of the American Colonies; especially as such Colonies are unable to defend themselves. 33. The parliament of Great Britain has a right and a duty to take care that provision be made for a sufficient support of the American governments. Because 34. The support of the government is one of the principal conditions upon which a Colony is allowed the power of legislation. Also because 35. Some of the American Colonies have shewn themselves deficient in the support of their several governments, both as to sufficiency and independency."

His 75th proposition is, "Every American government is capable of having its constitution altered for the better. 76. The grants of the powers of governments to the American Colonies by charters cannot be understood to be intended for other than their infant

or growing States. 77. They cannot be intended for their mature state, that is for perpetuity; because they are in many things unconstitutional and contrary to the very nature of a British government; therefore 78. They must be considered as designed only as temporary means, for settling and bringing forward the peopling the Colonies; which being effected, the cause of the peculiarity of their constitution ceases. 79. If the charters can be pleaded against the authority of Parliament they amount to an alienation of the dominions of Great Britain, and are in effect acts of dismembering the British empire, and will operate as such, if care is not taken to prevent it. 83. The notion which has heretofore prevailed, that the dividing America into many governments, and different modes of government will be the means to prevent their uniting to revolt, is ill founded; since, if the governments were ever so much consolidated, it will be necessary to have so many distinct States, as to make a union to revolt, impracticable. Whereas 84. The splitting America into many small governments, weakens the governing power, and strengthens that of the people; and thereby makes revolting more probable and more practicable. 85. To prevent revolts in future times (for there is no room to fear them in the present) the most effectual means would be, to make the governments large and respectable, and balance the powers of them. 86. There is no government in America at present, whose powers are properly balanced; there not being in any of them, a real and distinct third legislative power mediating between the king and the people, which is the peculiar excellence of the British constitution. 87. The want of such a third legislative power, adds weight to the popular, and lightens the royal scale; so as to destroy

the balance between the royal and popular powers. 88. Although America is not now (and probably will not be for many years to come) ripe enough for an hereditary nobility; yet it is now capable of a nobility for life. 89. A nobility appointed by the king for life, and made independent, would probably give strength and stability to the American governments, as effectually as an hereditary nobility does to that of Great Britain. 90. The reformation of American governments should not be controuled by the present boundaries of the Colonies; as they were mostly settled upon partial, occasional, and accidental considerations, without any regard to a whole. 91. To settle the American governments to the greatest possible advantage, it will be necessary to reduce the number of them; in some places to unite and consolidate, in others to separate and transfer; and in general to divide by natural boundaries, instead of imaginary lines. 92. If there should be but one form of government established for all the North American provinces, it would greatly facilitate the reformation of them; since, if the mode of government was every where the same, people would be more indifferent under what division they were ranged. 93. No objections ought to arise to the alteration of the boundaries of provinces from proprietors, on account of their property only; since there is no occasion that it should in the least affect the boundaries of properties. 94. The present distinction of one government being more free or more popular than another, tend to embarrass and to weaken the whole; and should not be allowed to subsist among people, subject to one king and one law, and all equally fit for one form of government. 95. The American Colonies, in general, are, at this time, arrived at that state, which qualifies them to receive the most

perfect form of government; which their situation and relation to Great Britain, make them capable of. 96. The people of North America, at this time, expect a revisal and reformation of the American governments, and are better disposed to submit to it, than ever they were, or perhaps ever will be again. 97. This is therefore the proper, and critical time to reform the American governments, upon a general, constitutional, firm, and durable plan; and if it is not done now, it will probably every day grow more difficult, till at last it becomes impracticable."

My friends, these are the words, the plans, principles, and endeavours of governor Bernard in the year 1764. That Hutchinson and Oliver, notwithstanding all their disguises which you well remember, were in unison with him in the whole of his measures, can be doubted by no man. It appeared sufficiently in the part they all along acted, notwithstanding their professions. And it appears incontestibly from their detected letters, of which more hereafter.

Now let me ask you, if the parliament of Great Britain, had all the natural foundations of authority, wisdom, goodness, justice, power, in as great perfection as they ever existed in any body of men since Adam's fall; and if the English nation was the most virtuous, pure and free, that ever was; would not such an unlimited subjection of three millions of people to that parliament, at three thousand miles distance be real slavery? There are but two sorts of men in the world, freemen and slaves. The very definition of a freeman, is one who is bound by no law to which he has not consented. Americans would have no way of giving or withholding their consent to the acts of this parliament, therefore they would not be freemen. But, when luxury, effeminacy and

venality are arrived at such a shocking pitch in England, when both electors and elected, are become one mass of corruption, when the nation is oppressed to death with debts and taxes, owing to their own extravagance, and want of wisdom, what would be your condition under such an absolute subjection to parliament? You would not only be slaves. But the most abject sort of slaves to the worst sort of masters! at least this is my opinion. Judge you for yourselves between Massachusettensis and

NOVANGLUS.

ADDRESSED

To the Inhabitants of the Colony of Massachusetts Bay,

February 6, 1775.

MY FRIENDS,

THE history of the tories, began in my last, will be interrupted for some time; but it shall be reassumed, and minutely related, in some future papers. Massachusettensis, who shall now be pursued, in his own serpentine path; in his first paper, complains, that the press is not free, that a party has gained the

ascendency so far as to become the licencers of it; by playing off the resentment of the populace, against printers and authors: That the press is become an engine of oppression and licentiousness, much devoted to the partisans of liberty, who have been indulged in publishing what they pleased, *fas vel nefas*, while little has been published on the part of government.

The art of this writer which appears in all his productions, is very conspicuous in this. It is intended to excite a resentment against the friends of liberty, for tyrannically depriving their antagonists, of so important a branch of freedom, and a compassion towards the tories, in the breasts of the people in the other Colonies and in Great Britain, by insinuating, that they have not had equal terms. But nothing can be more injurious, nothing farther from the truth. Let us take a retrospective view of the period, since the last peace, and see, whether they have not uniformly had the press at their service, without the least molestation to authors or printers. Indeed, I believe that the Massachusetts Spy, if not the Boston Gazette have been open to them as well as to others. The Evening Post, Massachusetts Gazette and Boston Chronicle, have certainly been always as free for their use as the air. Let us dismiss prejudice and passion, and examine impartially, whether the tories have not been chargeable with at least as many libels, as much licentiousness of the press, as the whigs? Dr. Mayhew was a whig of the first magnitude, a clergyman equalled by very few of any denomination in piety, virtue, genius or learning, whose works will maintain his character, as long as New England shall be free, integrity esteemed, or wit, spirit, humour, or reason and knowledge admired. How was he treated from the

press? Did not the reverend tories who were pleased to write against him, the missionaries of defamation as well as bigotry and passive obedience, in their pamphlets, and news papers, bespatter him all over with their filth? With equal falsehood and malice charge him with every thing evil? Mr. Otis, was in civil life; and a senator, whose parts, literature, eloquence and integrity, proved him a character in the world, equal to any of the time in which he flourished, of any party in the province. Now be pleased to recollect the Evening Post. For a long course of years, that gentleman, his friends and connexions, of whom the world has, and grateful posterity will have a better opinion than Massachusettensis will acknowledge, were pelted with the most infernally malicious, false, and atrocious libels, that ever issued from any press in Boston. I will mention no other names, lest I give too much offence to the modesty of some, and the envy and rancour of others.

There never was before, in any part of the world, a whole town insulted to their faces, as Boston was, by the Boston Chronicle. Yet the printer was not molested for printing, it was his mad attack upon other printers with his clubs, and upon other gentlemen with his pistols, that was the cause of his flight, or rather the pretence. The truth was, he became too polite to attend his business, his shop was neglected, procreations were coming for more than 2000 sterling, which he had no inclination to pay.

Printers may have been less eager after the productions of the tories than of the whigs, and the reason has been because the latter have been more consonant to the general taste and sense, and

consequently more in demand. Notwithstanding this, the former have ever found one press at least devoted to their service, and have used it as licentiously as they could wish. Whether the revenue chest has kept it alive and made it profitable against the general sense, or not, I wot not. Thus much is certain that 200, 3, 4, 5, 600, 800, 1500 sterling a year, has been the constant reward of every scribbler, who has taken up the pen on the side of the ministry, with any reputation, and commissions have been given here for the most wretched productions of dulness itself. Whereas the writers on the side of liberty, have been rewarded only with the consciousness of endeavouring to do good, with the approbation of the virtuous and the malice of men in power.

But this is not the first time, that writers have taken advantage of the times. Massachusettensis knows the critical situation of this Province. The danger it is in, without government or law: The army in Boston.— The people irritated and exasperated, in such a manner as was never before borne by any people under Heaven. Much depends upon their patience at this critical time, and such an example of patience and order, this people have exhibited in a state of nature, under such cruel insults, distresses and provocations, as the history of mankind cannot parallel. In this state of things protected by an army, the whole junto are now pouring forth the whole torrents of their Billingsgate, propagating thousands of the most palpable falsehoods, when they know that the writers on the other side have been restrained by their prudence and caution from engaging in a controversy that must excite heats, lest it should have unhappy and tragical consequences.

There is nothing in this world so excellent that it may not be abused. The abuses of the press are notorious. It is much to be desired that writers on all sides would be more careful of truth and decency: but upon the most impartial estimate, the tories will be found to have been the least so, of any party among us.

The honest Veteran, who ought not to be forgotten, in this place, says, "if an inhabitant of Bern or Amsterdam, could read the newspapers, &c. he would be at a loss how to reconcile oppression with such unbounded licence of the press: and would laugh at the charge, as something much more than a paradox, as a palpable contradiction." But with all his taste, and manly spirit, the Veteran is little of a statesman. His ideas of liberty are quite inadequate; his notions of government very superficial. License of the press is no proof of liberty. When a people is corrupted, the press may be made an engine to complete their ruin: and it is now notorious, that the ministry, are daily employing it to encrease and establish corruption, and to pluck up virtue by the roots. Liberty can no more exist without virtue and independence, than the body can live and move without a soul. When these are gone, and the popular branch of the constitution is become dependant on the minister, as it is in England, or cut off as it is in America, all other forms of the constitution may remain; but if you look for liberty, you will grope in vain, and the freedom of the press, instead of promoting the cause of liberty, will but hasten its destruction, as the best cordials taken by patients, in some distempers, become the most rancid and corrosive poisons.

The language of the Veteran, however, is like the

style of the minister and his scribblers in England boasting of the unbounded freedom of the press, and assuring the people that all is safe, while that continues; and thus the people are to be cheated with libels in exchange for their liberties.

A stronger proof cannot be wished, of the scandalous license of the tory presses, than the swarms of pamphlets and speculations, in New York and Boston, since last October. "Madness, folly, delusion, delirium, infatuation, phrensy, high treason and rebellion," are charged in every page, upon three millions of as good and loyal, as sensible and virtuous people, as any in the empire: nay upon that congress, which was as full and free a representative, as ever was constituted by any people, chosen universally without solicitation, or the least tincture of corruption: that congress which consisted of governors, counsellors, some of them by mandamus too, judges of supreme courts, speakers of assemblies, planters and merchants of the first fortune and character, and lawyers of the highest class, many of them educated at the temple, called to the bar in England, and of abilities and integrity equal to any there.

Massachusettensis, conscious that the people of this continent have the utmost abhorrence of treason and rebellion, labours to avail himself of the magic in these words. But his artifice is vain. The people are not to be intimidated by hard words, from a necessary defence of their liberties: Their attachment to their constitution so dearly purchased by their own and their ancestors blood and treasure, their aversion to the late innovations, their horror of arbitrary power and the Romish religion, are much deeper rooted than their dread of rude sounds and

unmannerly language. They do not want the advice of an honest lawyer, if such an one could be found, nor will they be deceived by a dishonest one. They know what offence it is, to assemble, armed and forcibly obstruct the course of justice. They have been many years considering and inquiring, they have been instructed by Massachusettensis and his friends, in the nature of treason, and the consequences of their own principles and actions. They know upon what hinge the whole dispute turns. That the *fundamentals* of the government over them, are disputed, that the minister pretends and had the influence to obtain the voice of the last parliament in his favour, that parliament is the only supreme, sovereign, absolute and uncontroulable legislative over all the Colonies, that therefore the minister and all his advocates will call resistance, to acts of parliament, by the names of treason and rebellion. But at the same time they know, that in their own opinions, and in the opinions of all the Colonies, parliament has no authority over them, excepting to regulate their trade, and this not by any principle of common law, but merely by the consent of the Colonies, founded on the obvious necessity of a case, which was never in contemplation of that law, nor provided for by it; that therefore they have as good a right to charge that minister, Massachusettensis and the whole army to which he has fled for protection, with treason and rebellion. For if the parliament has not a legal authority to overturn their constitution, and subject them to such acts as are lately passed, every man, who accepts of any commission and takes any steps to carry those acts into execution, is guilty of overt acts of treason and rebellion against his majesty, his royal crown and dignity, as much as if he should take arms against his troops, or attempt

his sacred life. They know that the resistance against the stampt act, which was made through all America, was in the opinion of Massachusettensis, and George Grenville, high treason, and that Brigadier Ruggles, and good Mr. Ogden, pretended at the congress at New York, to be of the same mind, and have been held in utter contempt and derision by the whole continent, for the same reason, ever since; because in their own opinion, that resistance was a noble stand against tyranny, and the only opposition to it, which could have been effectual. That if the American resistance to the act for destroying your charter, and to the resolves for arresting persons here and sending them to England for trial is treason, the lords and commons, and the whole nation, were traitors at the revolution.

They know that all America is united in sentiment, and in the plan of opposition to the claims of administration and parliament. The junto in Boston, with their little flocks of adherents in the country, are not worth taking into the account; and the army and navy, though these are divided among themselves, are no part of America; in order to judge of this union, they begin at the commencement of the dispute, and run through the whole course of it. At the time of the Stamp Act, every Colony expressed its sentiments by resolves of their assemblies, and every one agreed that parliament had no right to tax the Colonies. The house of representatives of the Massachusetts Bay, then consisted of many persons, who have since figured as friends to government; yet every member of that house concurred most cheerfully in the resolves then passed. The congress which met that year at New York, expressed the same opinion in their resolves, after the paint, paper and tea act was passed. The several assemblies

expressed the same sentiments, and when your Colony wrote the famous circular letter, notwithstanding all the mandates and threats, and cajoling of the minister and the several governors, and all the crown officers through the continent, the assemblies with one voice echoed their entire approbation of that letter, and their applause to your Colony for sending it. In the year 1768, when a non importation was suggested and planned by a few gentlemen at a private club, in one of our large towns, as soon as it was proposed to the public, did it not spread through the whole continent? Was it not regarded, like the laws of the Medes and Persians, in almost all the Colonies? When the paint and paper act was repealed, the southern Colonies agreed to depart from the association in all things but the dutied articles, but they have kept strictly to their agreement against importing them, so that no tea worth the mentioning, has been imported into any of them from Great Britain to this day. In the year 1770, when a number of persons were slaughtered in King Street, such was the brotherly sympathy of all the Colonies, such their resentment against an hostile administration; that the innocent blood then spilt, has never been forgotten, nor the murderous minister and governors, who brought the troops here, forgiven, by any part of the continent, and never will be. When a certain masterly statesman, invented a committee of correspondence in Boston, which has provoked so much of the spleen of Massachusettensis, of which much more hereafter; did not every Colony, nay every county, city, hundred and town upon the whole continent, adopt the measure? I had almost said, as if it had been a revelation from above, as the happiest means of cementing the union and acting in concert? What

proofs of union have been given since the last March? Look over the resolves of the several Colonies, and you will see that one understanding governs, one heart animates the whole body. Assemblies, conventions, congresses, towns, cities, and private clubs and circles, have been actuated by one great, wise, active and noble spirit, one masterly soul, animating one vigorous body.

The congress at Philadelphia, have expressed the same sentiments with the people of New England, approved of the opposition to the late innovations, unanimously advised us to persevere in it, and assured us that if force is attempted to carry these measures against us, all America ought to support us. Maryland and the lower counties on Delaware, have, already, to shew to all the world their approbation of the measures of New England, and their determination to join in them, with a generosity, a wisdom and magnanimity, which ought to make the tories consider, taken the power of the militia into the hands of the people, without the governor, or minister, and established it, by their own authority, for the defence of the Massachusetts, as well as of themselves. Other Colonies are only waiting to see if the necessity of it will become more obvious. Virginia, and the Carolinas, are preparing for military defence, and have been for some time. When we consider the variety of climates, soils, religious, civil governments, commercial interests, &c. which were represented at the congress, and the various occupations, educations, and characters of the gentlemen who composed it, the harmony and unanimity which prevailed in it, can scarcely be paralleled in any assembly that ever met. When we consider, that at the revolution, such mighty questions, as whether the throne was vacant or not,

and whether the Prince of Orange should be king or not, were determined in the convention of parliament by small majorities of two or three; and four or five only; the great majorities, the almost unanimity with which all great questions have been decided in your house of representatives, and other assemblies, and especially in the continental congress, cannot be considered in any other light than as the happiest omens indeed, as providential dispensations in our favour, as well as the clearest demonstrations of the cordial, firm, radical and indissoluble union of the Colonies.

The grand aphorism of the policy of the whigs has been to unite the people of America, and divide those of Great Britain: The reverse of this has been the maxim of the tories, viz:—To unite the people of Great Britain, and divide those of America: All the movements, marches and countermarches of both parties, on both sides of the Atlantic, may be reduced to one or the other of these rules. I have shewn, in opposition to Massachusettensis, that the people of America are united more perfectly than the most sanguine whig could ever have hoped, or than the most timid tory could have feared. Let us now examine whether the people of Great Britain are equally united against us. For if the contending countries were equally united, the prospect of success in the quarrel would depend upon the comparative wisdom, firmness, strength and other advantages of each. And if such a comparison was made, it would not appear to a demonstration that Great Britain could so easily subdue and conquer. It is not so easy a thing for the most powerful State to conquer a country a thousand leagues off. How many years time, how many millions of money, did it take, with five and thirty thousand men, to conquer the

poor province of Canada? And after all the battles and victories, it never would have submitted without a capitulation, which secured to them their religion and properties.

But we know that the people of Great Britain are not united against us. We distinguish between the ministry, the house of commons, the officers of the army, navy, excise, customs, &c. who are dependent on the ministry and tempted, if not obliged, to echo their voices; and the body of the people. We are assured by thousands of letters from persons of good intelligence, by the general strain of publications in public papers, pamphlets, and magazines, and by some larger works written for posterity, that the body of the people are friends to America, and wish us success in our struggles against the claims of parliament and administration. We know that millions in England and Scotland, will think it unrighteous, impolitic and ruinous, to make war upon us, and a minister, though he may have a marble heart, will proceed with a diffident, desponding spirit. We know that London and Bristol the two greatest commercial cities in the empire, have declared themselves in the most decisive manner, in favor of our cause. So explicitly that the former has bound her members under their hands to assist us, and the latter has chosen two known friends of America, one attached to us by principle, birth, and the most ardent affection, the other an able advocate for us on several great occasions. We know that many of the most virtuous and independent of the nobility and gentry, are for us, and among them the best bishop that adorns the bench, as great a judge as the nation can boast, and the greatest statesman it ever saw. We know that the nation is loaded with debts and taxes by the folly

and iniquity of its ministers, and that without the trade of America, it can neither long support its fleet and army, nor pay the interest of its debt.

But we are told that the nation is now united against us, that they hold they have a right to tax us and legislate for us as firmly as we deny it. That we are a part of the British empire, that every State must have an uncontroulable power co-extensive with the empire, that there is little probability of serving ourselves by ingenious distinctions between external and internal taxes. If we are not a part of the state, and subject to the supreme authority of parliament, Great Britain will make us so; that if this opportunity of reclaiming the Colonies is lost, they will be dismembered from the empire; and although they may continue their allegiance to the king they will own none to the imperial crown.

To all this I answer, that the nation is not so united; that they do not so universally hold they have such a right, and my reasons I have given before. That the terms "British Empire" are not the language of the common law, but the language of newspapers and political pamphlets. That the dominions of the king of Great Britain has no uncontroulable power co-extensive with them. I would ask by what law the Parliament has authority over America? By the law of GOD in the Old and New Testament, it has none: By the law of nature and nations, it has none. By the common law of England is has none. For the common law, and the authority of parliament founded on it, never extended beyond the four seas. By statute law it has none, for no statute was made before the settlement of the Colonies for this purpose; and the declaratory act made in 1766, was made without our consent, by a parliament which

had no authority beyond the four seas. What religious, moral or political obligations then are we under, to submit to parliament as a supreme legislative? None at all. When it is said, that if we are not subject to the supreme authority of parliament, Great Britain will make us so, all other laws and obligations are given up, and recourse is had to the *ratio ultima* of Louis the 14th, and the *suprema lex* of the king of Sardinia, to the law of brickbats and cannon balls, which can be answered only by brickbats and balls.

This language "the imperial crown of Great Britain," is not the style of the common law but of court sycophants. It was introduced in allusion to the Roman empire, and intended to insinuate that the prerogative of the imperial crown of England, was like that of the Roman emperor, after the maxim was established, *quod principi placuit legis habet vigorem*, and so far from including the two houses of parliament in the idea of this imperial crown, it was intended to insinuate that the crown was absolute, and had no need of lords or commons to make or dispense with laws. Yet even these court sycophants when driven to an explanation, never dared to put any other sense upon the words imperial crown than this, that the crown of England was independent of France, Spain, and all other kings and states in the world.

When he says that the king's dominions must have an uncontroulable power, co-extensive with them. I ask whether they have such a power or not? And utterly deny that they have by any law but that of Louis the 14th, and the king of Sardinia. If they have not, and it is necessary that they should have, it then follows that there is a defect in what he calls the British

empire; and how shall this defect be supplied? It cannot be supplied consistently with reason, justice, policy, morality, or humanity, without the consent of the Colonies and some new plan of connection. But if Great Britain will set all these at defiance, and resort to the *ratio ultima*, all Europe will pronounce her a tyrant, and America never will submit to her, be the danger of disobedience as great as it will.

But there is no need of any other power than that of regulating trade, and this the Colonies ever have been and will be ready and willing to concede to her. But she will never obtain from America any further concession while she exists. We are then asked, "for what she protected and defended the Colonies against the maritime power of Europe from their first settlement to this day?" I answer for her own interest, because all the profits of our trade centered in her lap. But it ought to be remembered, that her name, not her purse, nor her fleets and armies, ever protected us, until the last war, and then the minister who conducted that war, informs us, that the annual millions from America enabled her to do it.

We are then asked for what she purchased New York of the Dutch? I answer she never did. The Dutch never owned it, were never more than trespassers and intruders there, and were finally expelled by conquest. It was ceded it is true by the treaty of Breda, and it is said in some authors, that some other territory in India was ceded to the Dutch in lieu of it. But this was the transaction of the king, not of parliament, and therefore makes nothing to the argument. But admitting for argument sake, (since the cautious Massachusettensis will urge us into the discussion of such questions) what is not a supposable case, that the nation should be so sunk in

sloth, luxury, and corruption, as to suffer their minister to persevere in his mad blunders and send fire and sword against us, how shall we defend ourselves? The Colonies south of Pennsylvania have no men to spare we are told. But we know better—we know that all those Colonies have a back country which is inhabited by an hardy, robust people, many of whom are emigrants from New England, and habituated like multitudes of New England men, to carry their fuzees or rifles upon one shoulder to defend themselves against the Indians, while they carried their axes, scythes and hoes upon the other to till the ground. Did not those Colonies furnish men the last war excepting Maryland? Did not Virginia furnish men, one regiment particularly equal to any regular regiment in the service? Does the soft Massachusettensis imagine that in the unnatural horrid war, he is now supposing their exertions would be less? If he does he is very ill informed of their principles, their present sentiments and temper. But "have you arms and ammunition?" I answer we have; but if we had not, we could make a sufficient quantity for both. What should hinder? We have many manufacturers of fire arms now, whose arms are as good as any in the world. Powder has been made here, and may be again, and so may salt-petre. What should hinder? We have all the materials in great abundance, and the process is very simple. But if we neither had them nor could make them, we could import them. But "the British navy" aye there's the rub. But let us consider, since the prudent Massachusettensis will have these questions debated. How many ships are taken to blockade Boston harbour? How many ships can Britain spare to carry on this humane and political war, the object of which is a pepper corn! let her send all the ships she

has round her island. What if her ill natured neighbours, France and Spain should strike a blow in their absence? In order to judge what they could all do when they arrived here we should consider what they are all able to do round the island of Great Britain. We know that the utmost vigilance and exertions of them added to all the terms of sanguinary laws, are not sufficient to prevent continual smuggling, into their own island. Are there not fifty bays, harbours, creeks and inlets upon the whole coast of North America, where there is one round the island of Great Britain. Is it to be supposed then, that the whole British navy could prevent the importation of arms and ammunition into America, if she should have occasion for them to defend herself against the hellish warfare that is here supposed.

But what will you do for discipline and subordination? I answer we will have them in as great perfection as the regular troops. If the provincials were not brought in the last war to a proper discipline, what was the reason? Because regular generals would not let them fight, which they ardently wished, but employed them in cutting roads. If they had been allowed to fight they would have brought the war to a conclusion too soon. The provincials did submit to martial law, and to the mutiny and desertion act the last war, and such an act may be made here by a legislature which they will obey with much alacrity than an act of parliament.

The new fangled militia as the specious Massachusettensis calls it, is such a militia as he never saw. They are commanded through the province, not by men who procured their commissions from a governor as a reward for making

themselves pimps to his tools, and by discovering a hatred of the people but by gentlemen whose estates, abilities and benevolence have rendered them the delight of the soldiers, and there is an esteem and respect for them visible through the province, which has not been used in the militia. Nor is there that unsteadiness that is charged upon them. In some places, where companies have been split into two or three, it has only served by exciting an emulation between the companies to increase the martial spirit and skill.

The plausible Massachusettensis may write as he will, but in a land war, this continent might defend itself against all the world. We have men enough, and those men have as good natural understandings, and as much natural courage as any other men. If they were wholly ignorant now, they might learn the art of war. But at sea we are defenceless. A navy might burn our seaport towns. What then? If the insinuating Massachusettensis has ever read any speculations, concerning an Agrarian law, and I know he has, he will be satisfied that 350,000 landholders will not give up their rights and the constitution, by which they hold them, to save fifty thousand inhabitants of maritime towns. Will the minister be nearer his mark, after he has burnt a beautiful town and murdered 30,000 innocent people? So far from it, that one such event, would occasion the loss of all the Colonies to Great Britain forever. It is not so clear that our trade, fishery and navigation, could be taken from us. Some persons, who understand this subject better than Massachusettensis, with all his sprightly imaginations, are of a different opinion. They think that our trade would be increased. But I will not enlarge upon this subject, because I wish the trade of

this continent may be confined to Great Britain, at least as much of it, as it can do her any good to restrain.

The Canadians and Savages are brought in to thicken the horrors of a picture, with which the lively fancy of this writer has terrified him. But although we are sensible that the Quebec act has laid a foundation for a fabric, which if not seasonably demolished, may be formidable, if not ruinous to the Colonies, in future times, yet we know that these times are yet at a distance; at present we hold the power of the Canadians as nothing. But we know their dispositions are not unfriendly to us.

The Savages will be more likely to be our friends than enemies; but if they should not, we know well enough how to defend ourselves against them.

I ought to apologize for the immoderate length of this paper. But general assertions are only to be confuted by an examination of particulars, which necessarily fills up much space. I will trespass on the reader's patience only while I make one observation more upon the art, I had almost said chicanery of this writer.

He affirms that we are not united in this province, and that associations are forming in several parts of the province. The association he means has been laid before the public, and a very curious piece of legerdemain it is. Is there any article acknowledging the authority of parliament, the unlimited authority of parliament? Brigadier Ruggles himself, Massachusettensis himself, could not have signed it if there had, consistent with their known declared opinions. They associate to stand by the king's laws, and this every whig will subscribe. But after all, what

a wretched fortune has this association made in the world! the numbers who have signed it, would appear so inconsiderable, that I dare say the Brigadier will never publish to the world their numbers or names. But "has not Great Britain been a nursing mother to us?" Yes, and we have behaved as nurse children commonly do, been very fond of her, and rewarded her all along ten fold for all her care and expense in our nurture.

But "is not our distraction owing to parliament's taking off a shilling duty on tea and imposing three pence, and is not this a more unaccountable phrensy, more disgraceful to the annals of America, than the witchcraft?"

Is the three pence upon tea our only grievance? Are we not in this province deprived of the priviledge of paying our governors, judges, &c.? Are not trials by jury taken from us? Are we not sent to England for trial? Is not a military government put over us? Is not our constitution demolished to the foundation? Have not the ministry shewn by the Quebec bill, that we have no security against them for our religion any more than our property, if we once submit to the unlimited claims of parliament? This is so gross an attempt to impose on the most ignorant of the people, that it is a shame to answer it.

Obsta principiis—Nip the shoots of arbitrary power in the bud, is the only maxim which can ever preserve the liberties of any people. When the people give way, their deceivers, betrayers and destroyers press upon them so fast that there is no resisting afterwards. The nature of the encroachment upon American constitution is such, as to grow every day more and more encroaching. Like a cancer, it eats

faster and faster every hour. The revenue creates pensioners and the pensioners urge for more revenue. The people grow less steady, spirited and virtuous, the seekers more numerous and more corrupt, and every day increases the circles of their dependants and expectants, until virtue, integrity, public spirit, simplicity and frugality, become the objects of ridicule and scorn, and vanity, luxury, foppery, selfishness, meanness, and downright venality swallow up the whole society.

NOVANGLUS.

ADDRESSED

To the Inhabitants of the Colony of Massachusetts Bay,

February 13, 1775.

MY FRIENDS,

MASSACHUSETTENSIS, whose pen can wheedle with the tonge of king Richard the third, in his first paper, threatens you with the vengeance of Great Britain, and assures you that if she had no authority over you, yet she would support her claims by her fleets and armies, Canadians and Indians. In his next he

alters his tone, and soothes you with the generosity, justice and humanity of the nation.

I shall leave him to show how a nation can claim an authority which they have not by right, and support it by fire and sword, and yet be generous and just. The nation I believe is not vindictive, but the minister has discovered himself to be so, in a degree that would disgrace a warrior of a savage tribe.

The wily Massachusettensis thinks our present calamity is to be attributed to the bad policy of a popular party, whose measures, whatever their intentions were, have been opposite to their profession, the public good. The present calamity seems to be nothing more nor less, than reviving the plans of Mr. Bernard and the junto, and Mr. Grenville and his friends in 1764. Surely this party, are and have been rather unpopular. The popular party did not write Bernard's letters, who so long ago pressed for the demolition of all the charters upon the continent, and a parliamentary taxation to support government, and the administration of justice in America.

The popular party did not write Oliver's letters, who enforces Bernard's plans, nor Hutchinson's, who pleads with all his eloquence and pathos for parliamentary penalties, ministerial vengeance and an abridgement of English liberties.

There is not in human nature a more wonderful phenomenon; nor in the whole theory of it, a more intricate speculation; than the *shiftings*, *turnings*, *windings* and *evasions* of a guilty conscience. Such is our unalterable moral constitution, that an internal inclination to do wrong, is criminal; and a wicked

thought, stains the mind with guilt, and makes it tingle with pain. Hence it comes to pass that the guilty mind, can never bear to think that its guilt is known to God or man, no, nor to itself.

———Cur tamen hos tu
Evasisse putes, quos diri conscia facti
Mens habet attonitos, et surdo verbere cædit
Occultum quatiente animo tortore flagellum?
Pœna autem vehemens ac multo sævior illis,
Quas et Cædicius gravis invenit et Rhadamanthus,
Nocte dieque suum gestare in pectore testem.
JUV. SAT. 13. 192.

Massachusettensis and his friends the tories, are startled at the calamities they have brought upon their country, and their conscious guilt, their smarting, wounded mind, will not suffer them to confess, even to themselves, what they have done. Their silly denials of their own share in it before a people, who they know have abundant evidence against them, never fail to remind me of an ancient *fugitive*, whose conscience could not bear the recollection of what he had done. "I know not, am I my brother's keeper?" He replies, with all the apparent simplicity of truth and innocence, to one from whom he was very sensible his guilt could not be hid. The still more absurd and ridiculous attempts of the tories, to throw off the blame of these calamities from themselves to the whigs, remind me of another story, which I have read in the Old Testament. When Joseph's brethren had sold him to the Ishmaelites for twenty pieces of silver, in order to conceal their own avarice, malice and envy, they dip the coat of many colours in the blood of a kid, and say that an evil beast had rent him in pieces and devoured him.

However, what the sons of Israel intended for ruin to Joseph, proved the salvation of the family; and I hope and believe that the whigs, will have the magnanimity, like him, to suppress their resentment, and the felicity of saving their ungrateful brothers.

This writer has a faculty of insinuating errors into the mind, almost imperceptibly, he dresses them so in the guise of truth. He says "that the revenue to the crown, from America amounted to but little more than the charges of collecting it," at the close of the last war. I believe it did not amount to so much. The truth is, there was never any pretence of raising a revenue in America before that time, and when the claim was first set up, it gave an alarm, like a warlike expedition against us. True it is that some duties had been laid before by parliament, under pretence of regulating our trade, and by a collusion and combination between the West India planters, and the North American governors, some years before, duties had been laid upon molasses, &c. under the same pretence, but in reality merely to advance the value of the estates of the planters in the West India Islands, and to put some plunder, under the name of thirds of seisures into the pockets of the governors. But these duties, though more had been collected in this province, than in any other in proportion, were never regularly collected in any of the Colonies. So that the idea of an American revenue for one purpose or another had never, at this time, been formed in American minds.

Our writer goes on, "She, (Great Britain,) thought it as reasonable that the Colonies should bear a part of the national burdens, as that they should share in the national benefit."

Upon this subject Americans have a great deal to say. The national debt before the last war, was near an hundred millions. Surely America had no share in running into that debt. What is the reason then that she should pay it? But a small part of the sixty millions spent in the last war, was for her benefit. Did she not bear her full share of the burden of the last war in America? Did not the province pay twelve shillings in the pound in taxes for the support of it; and send a sixth or seventh part of her sons into actual service? And at the conclusion of the war, was she not left half a million sterling in debt? Did not all the rest of New England exert itself in proportion? What is the reason that the Massachusetts has paid its debt, and the British minister in thirteen years of peace has paid none of his? Much of it might have been paid in this time, had not such extravagance and speculation prevailed, as ought to be an eternal warning to America, never to trust such a minister with her money. What is the reason that the great and necessary virtues of simplicity, frugality and economy cannot live in England, Scotland and Ireland, as well as America?

We have much more to say still. Great Britain has confined all our trade to herself. We are willing she should, as far as it can be for the good of the empire. But we say that we ought to be allowed as credit, in the account of public burdens and expenses, so much paid in taxes, as we are obliged to sell our commodities to her cheaper than we could get for them at foreign markets. The difference is really a tax upon us, for the good of the empire. We are obliged to take from Great Britain commodities, that we could purchase cheaper elsewhere. This difference is a tax upon us for the good of the empire. We submit to this cheerfully, but insist that

we ought to have credit for it, in the account of the expenses of the empire, because it is really a tax upon us. Another thing. I will venture a bold assertion. Let Massachusettensis, or any other friend of the minister, confute me. The three million Americans, by the tax aforesaid, upon what they are obliged to export to Great Britain only, what they are obliged to import from Great Britain only, and the quantities of British manufactures which in these climates they are obliged to consume, more than the like number of people in any part of the three kingdoms, ultimately pay more of the taxes and duties that are apparently paid in Great Britain, than any three million subjects in the three kingdoms. All this may be computed and reduced to stubborn figures, by the minister, if he pleases. We cannot do it. We have not the accounts, records, &c. Now let this account be fairly stated, and I will engage for America, upon any penalty, that she will pay the overplus, if any, in her own constitutional way, provided it is to be applied for national purposes, as paying off the national debt, maintaining the fleet, &c. not to the support of a standing army in time of peace, placemen, pensioners, &c.

Besides, every farthing of expense which has been incurred on pretence of protecting, defending and securing America, since the last war, has been worse than thrown away; it has been applied to do mischief. Keeping an army in America has been nothing but a public nuisance.

Furthermore, we see that all the public money that is raised here, and have reason to believe all that will or can be raised, will be applied not for public purposes, national or provincial, but merely to corrupt the sons of America, and create a faction to

destroy its interest and happiness.

There are scarcely three sentences together, in all the voluminous productions of this plausible writer, which do not convey some error in fact or principle, tinged with a colouring to make it pass for truth. He says, "the idea, that the stamps were a tax, not only exceeding our proportion, but beyond our utmost ability to pay, united the Colonies generally in opposing it." That we thought it beyond our proportion and ability is true, but it was not this thought which united the Colonies in opposing it. When he says that at first, we did not dream of denying the authority of parliament to tax us, much less to legislate for us, he discovers plainly either a total inattention to the sentiments of America at that time, or a disregard of what he affirms.

The truth is, the authority of parliament was never generally acknowledged in America. More than a century since, Massachusetts and Virginia, both protested against even the act of navigation and refused obedience, for this very reason, because they were not represented in parliament and were therefore not bound; and afterwards confirmed it by their own provincial authority. And from that time to this, the general sense of the Colonies has been, that the authority of parliament was confined to the regulation of trade, and did not extend to taxation or internal legislation.

In the year 1764, your house of representatives sent home a petition to the king, against the plan of taxing them. Mr. Hutchinson, Oliver and their relations and connections were then in the legislature, and had great influence there. It was by their influence that the two houses were induced to

wave the word rights, and an express denial of the right of parliament to tax us, to the great grief and distress of the friends of liberty in both houses. Mr. Otis and Mr. Thatcher laboured in the committee to obtain an express denial. Mr. Hutchinson expressly said he agreed with them in opinion, that parliament had no right, but thought it ill policy to express this opinion in the petition. In truth, I will be bold to say, there was not any member of either house, who thought that parliament had such a right at that time. The house of representatives, at that time, gave their approbation to Mr. Otis's rights of the Colonies, in which it was shewn to be inconsistent with the right of British subjects to be taxed, but by their own representatives.

In 1765, our house expressly resolved against the right of parliament to tax us. The congress at New York resolved 3. "That it is inseparably essential to the freedom of a people, and the undoubted right of Englishmen, that no tax be imposed on them, but with their own consent given personally, or by their representatives. 4. That the people of the Colonies are not, and from their local circumstances cannot be represented in the house of commons of Great Britain. 5. That the only representatives of the people of the Colonies, are the persons chosen therein by themselves; and that no taxes ever have been or can be constitutionally imposed on them, but by their respective legislatures." Is it not a striking disregard to truth in the artful Massachusettensis to say, that at first we did not dream of denying the right of parliament to tax us? It was the principle that united the Colonies to oppose it, not the quantum of the tax. Did not Dr. Franklin deny the right in 1754, in his remarks upon governor Shirley's scheme, and supposed that all America would deny it? We had

considered ourselves as connected with Great Britain, but we never thought parliament the supreme legislature over us. We never generally supposed it to have any authority over us, but from necessity, and that necessity we thought confined to the regulation of trade, and to such matters as concerned all the colonies together. We never allowed them any authority in our internal concerns.

This writer says, acts of parliament for regulating our internal polity were familiar. This I deny. So far otherwise, that the hatter's act was never regarded; the act to destroy the Land Bank Scheme raised a greater ferment in this province, than the stamp-act did, which was appeased only by passing province laws directly in opposition to it. The act against slitting mills, and tilt hammers, never was executed here. As to the postage, it was so useful a regulation, so few persons paid it, and they found such a benefit by it, that little opposition was made to it. Yet every man who thought about it called it an usurpation. Duties for regulating trade we paid, because we thought it just and necessary that they should regulate the trade which their power protected. As for duties for a revenue, none were ever laid by parliament for that purpose until 1764, when, and ever since, its authority to do it has been constantly denied. Nor is this complaisant writer near the truth, when he says, "We know that in all those acts of government, the good of the whole had been consulted." On the contrary, we know that the private interest of provincial governors and West India planters, had been consulted in the duties on foreign molasses, &c. and the private interest of a few Portugal merchants, in obliging us to touch at Falmouth with fruit, &c. in opposition to the good of the whole, and in many other instances.

The resolves of the house of Burgesses of Virginia, upon the stamp act, did great honor to that province, and to the eminent patriot Patrick Henry, Esq. who composed them. But these resolves made no alteration in the opinion of the Colonies, concerning the right of parliament to make that act. They expressed the universal opinion of the continent at that time, and the alacrity with which every other Colony, and the congress at New York, adopted the same sentiment in similar resolves, proves the entire union of the Colonies in it, and their universal determination to avow and support it.

What follows here, that it became so popular that his life was in danger, who suggested the contrary, and that the press was open to one side only, are direct misrepresentations and wicked calumnies.

Then we are told, by this sincere writer, that when we obtained a partial repeal of the statute imposing duties on glass, paper, and teas, this was the lucky moment, when to have closed the dispute. What? With a Board of commissioners remaining the sole end of whose creation was to form and conduct a revenue—with an act of parliament remaining, the professed design of which expressed in the preamble, was to raise a revenue, and appropriate it to the payment of governors' and judges' salaries, the duty remaining too upon an article, which must raise a large sum, the consumption of which would constantly increase? Was this a time to retreat? Let me ask this sincere writer a simple question. Does he seriously believe that the designs of imposing other taxes, and of new modelling our governments, would have been bid aside, by the ministry or by the servants of the crown here? Does he think that Mr. Bernard, Mr. Hutchinson, the commissioners and

others, would have been content then to have desisted? If he really thinks so, he knows little of the human heart, and still less of those gentlemen's hearts. It was at this very time that the salary was given to the governor, and an order soliciting for that to the judges.

Then we are entertained with a great deal of ingenious talk about whigs and tories, and at last are told that some of the whigs owed all their importance to popularity. And what then? Did not as many of the tories owe their importance to popularity?—And did not many more owe all their importance to unpopularity? If it had not been for their taking an active part on the side of the ministry, would not some of the most conspicuous and eminent of them have been unimportant enough? Indeed, through the two last administrations to despise and hate the people, and to be despised and hated by them were the principal recommendations to the favours of government, and all the qualification that was required.

The tories, says he, were for closing the controversy. That is, they were for contending no more, and it was equally true that they never were for contending at all, but lying at mercy. It was the very end they had aimed at from the beginning. They had now got the governor's salary out of the revenue—a number of pensions and places, and they knew they could at any time get the judges' salaries from the same fountain, and they wanted to get the people reconciled and familiarised to this, before they went upon any new projects.

The whigs were averse to restoring government, they even refused to revive a temporary riot act, which

expired about this time. Government had as much vigour then as ever, excepting only in those cases which affected this dispute. The riot act expired in 1770, immediately after the massacre in King Street. It was not revived and never will be in this Colony, nor will any one ever be made in any other, while a standing army is illegally posted here, to butcher the people, whenever a governor, or a magistrate, who may be a tool, shall order it. "Perhaps the whigs thought that mobs were a necessary ingredient in their system of opposition." Whether they did or no, it is certain that mobs have been thought a necessary ingredient by the tories in their system of administration, mobs of the worst sort with red coats, fuzees and bayonets, and the lives and limbs of the whigs have been in greater danger from these, than ever the tories were from others.

"The scheme of the whigs flattered the people with the idea of independence; the tories' plan supposed a degree of subordination." This is artful enough, as usual not to say jesuitical. The word independence is one of those, which this writer uses, as he does treason and rebellion, to impose upon the undistinguishing on both sides of the Atlantic. But let us take him to pieces. What does he mean by independence? Does he mean independent of the crown of Great Britain, and an independent republic in America, or a confederation of independent republics? No doubt he intended the undistinguishing should understand him so. If he did; nothing can be more wicked, or a greater slander on the whigs; because he knows there is not a man in the province, among the whigs, nor ever was, who harbours a wish of that sort. Does he mean that the people were flattered with the idea of total independence on parliament? If he does, this is

equally malicious and injurious; because he knows that the equity and necessity of parliament's regulating trade has always been acknowledged, our determination to consent and submit to such regulations constantly expressed, and all the acts of trade in fact, to this very day, much more submitted to and strictly executed in this province, than any other in America.

There is equal ambiguity in the words "degree of subordination." The whigs acknowledge a subordination to the king, in as strict and strong a sense as the tories. The whigs acknowledge a voluntary subordination to parliament, as far as the regulation of trade. What degree of subordination then do the tories acknowledge? An absolute dependance upon parliament as their supreme legislative, in all cases whatever, in their internal polity as well as taxation? This would be too gross and would lose him all his readers; for there is nobody here who will expose his understanding so much, as explicitly to adopt such a sentiment. Yet it is such an absolute dependance and submission, that these writers would persuade us to, or else there is no need of changing our sentiments and conduct. Why will not these gentlemen speak out, shew us plainly their opinion that the new government, they have fabricated for this province, is better than the old, and that all the other measures, we complain of, are for our and the public good, and exhort us directly to submit to them? The reason is, because they know they should lose their readers.

"The whigs were sensible that there was no oppression that could be seen or felt." The tories have so often said and wrote this to one another, that I sometimes suspect they believe it to be true. But it

is quite otherwise. The castle of the province was taken out of their hand and garrisoned by regular soldiers: this they could see, and they thought it indicated an hostile intention and disposition towards them. They continually paid their money to collectors of duties: this they could both see and feel. An host of placemen, whose whole business it was to collect a revenue, were continually rolling before them in their chariots. These they saw. Their governor was no longer paid by themselves, according to their charter, but out of the new revenue, in order to render their assemblies useless and indeed contemptible. The judges' salaries were threatened every day to be paid in the same unconstitutional manner. The dullest eye-sight could not but see to what all this tended, viz.; to prepare the way for greater innovations and oppressions. They knew a minister would never spend his money in this way, if he had not some end to answer by it. Another thing they both saw and felt. Every man, of every character, who by voting, writing, speaking, or otherwise, had favoured the stamp act, the tea act, and every other measure of a minister or governor, who they knew was aiming at the destruction of their form of government, and introducing parliamentary taxation, was uniformly, in some department or other, promoted to some place of honour or profit for ten years together: and, on the other hand, every man who favoured the people in their opposition to those innovations, was depressed, degraded and persecuted, as far as it was in the power of the government to do it.

This they considered as a systematical means of encouraging every man of abilities to espouse the cause of parliamentary taxation, and the plan of destroying their charter privilege, and to discourage

all from exerting themselves, in opposition to them. This they thought a plan to enslave them, for they uniformly think that the destruction of their charter, making the council and judges wholly dependant on the crown, and the people subject to the unlimited power of parliament, as their supreme legislative, is slavery. They were certainly rightly told, then, that the ministry and their governors together had formed a design to enslave them; and that when once this was done, they had the highest reason to expect window taxes, hearth taxes, land taxes and all others: and that these were only paving the way for reducing the country to lordships. Were the people mistaken in these suspicions? Is it not now certain that governor Bernard in 1764, had formed a design of this sort? Read his principles of polity—And that lieutenant governor Oliver as late as 1768 or 9, inforced the same plan? Read his letters.

Now if Massachusettensis will be ingenuous, avow this design, shew the people its utility, and that it ought to be done by parliament, he will act the part of an honest man. But to insinuate that there was no such plan, when he knows there was, is acting the part of one of the junto.

It is true that the people of this country in general, and of this province in special, have an hereditary apprehension of and aversion to lordships, temporal and spiritual. Their ancestors fled to this wilderness to avoid them—they suffered sufficiently under them in England. And there are few of the present generation, who have not been warned of the danger of them by their fathers or grandfathers, and injoined to oppose them. And neither Bernard nor Oliver ever dared to avow, before them, the designs which they had certainly formed to introduce them. Nor does

Massachusettensis dare to avow his opinion in their favour. I do not mean that such avowal would expose their persons to danger, but their characters and writings to universal contempt.

When you were told that the people of England were depraved, the parliament venal, and the ministry corrupt, were you not told most melancholy truths? Will Massachusettensis deny any of them? Does not every man, who comes from England, whig or tory, tell you the same thing? Do they make any secret of it, or use any delicacy about it? Do they not most of them avow that corruption is so established there, as to be incurable, and a necessary instrument of government? Is not the British constitution arrived nearly to that point, where the Roman republic was, when Jugurtha left it, and pronounced it a venal city ripe for destruction, if it can only find a purchaser? If Massachusettensis can prove that it is not, he will remove from my mind, one of the heaviest loads which lies upon it.

Who has censured the tories for remissness, I know not. Whoever it was, he did them great injustice. Every one that I know of that character has been through the whole tempestuous period, as indefatigable as human nature will admit, going about seeking whom he might devour, making use of art, flattery, terror, temptation and allurements in every shape, in which human wit could dress it up, in public and private. But all to no purpose. The people have grown more and more weary of them every day, until now the land mourns under them.

Massachusettensis is then seized with a violent fit of anger at the clergy. It is curious to observe the conduct of the tories towards this sacred body. If a

clergyman preaches against the principles of the revolution, and tells the people that upon pain of damnation, they must submit to an established government, of whatever character the tories cry him up, as an excellent man, and a wonderful preacher, invite him to their tables, procure him missions from the society, and chaplainships to the navy, and flatter him with the hopes of lawn sleeves. But if a clergyman preaches christianity, and tells the magistrates that they were not distinguished from their brethren, for their private emolument, but for the good of the people; that the people are bound in conscience to obey a good government, but are not bound to submit to one, that aims at destroying all the ends of government—Oh Sedition! Treason!

The clergy in all ages and countries, and in this in particular, are disposed enough to be on the side of government, as long as it is tolerable. If they have not been generally, in the late administrations, on that side, it is a demonstration that the late administration has been universally odious.

The clergy of this province are a virtuous, sensible and learned set of men; and they do not take their sermons from newspapers, but the bible; unless it be a few, who preach passive obedience. These are not generally curious enough to read Hobbs.

It is the duty of the clergy to accommodate their discourses to the times, to preach against such sins, as are most prevalent, and recommend such virtues, as are most wanted. For example; if exorbitant ambition, and venality are predominant, ought they not to warn their hearers against their vices? If public spirit is much wanted, should they not inculcate this great virtue? If the rights and duties of

christian magistrates and subjects are disputed, should they not explain them, shew their nature, ends, limitations and restrictions, how much soever it may move the gall of Massachusettensis?

Let me put a supposition:—Justice is a great christian, as well as moral duty and virtue, which the clergy ought to inculcate and explain. Suppose a great man of a parish should for seven years together receive 600 sterling a year, for discharging the duties of an important office; but during the whole time, should never do one act or take one step about it. Would not this be great injustice to the public? And ought not the parson of that parish to cry aloud and spare not, and shew such a bold transgressor his sin? shew that justice was due to the public as well as to an individual? and that cheating the public of four thousand two hundred pounds sterling, is at least as great a sin, as taking a chicken from a private hen roost, or perhaps a watch from a fob?

Then we are told that newspapers and preachers have excited outrages disgraceful to humanity. Upon this subject I will venture to say, that there have been outrages in this province, which I neither justify, excuse or extenuate; but these were not excited, that I know of, by newspapers or sermons: that however, if we run through the last ten years, and consider all the tumults and outrages that have happened, and at the same time recollect the insults, provocations and oppressions which this people have endured; we shall find the two characteristics of this people, religion and humanity, strongly marked on all their proceedings. Not a life, nor, that I have ever heard, a single limb has been lost through the whole. I will take upon me to say, there is not another province on this continent, nor in his majesty's

dominions, where the people, under the same indignities, would not have gone greater lengths. Consider the tumults in the three kingdoms, consider the tumults in ancient Rome, in the most virtuous of her periods, and compare them with ours. It is a saying of Machiavel, which no wise man ever contradicted, which has been literally verified in this province; that "while the mass of the people is not corrupted, tumults do no hurt." By which he means, that they leave no lasting ill effects behind.

But let us consider the outrages committed by the tories. Half a dozen men shot dead in an instant, in King Street, frequent resistance and affronts to civil officers and magistrates, officers, watchmen, citizens, cut and mangle in a most inhuman manner. Not to mention the shootings for desertion, and the frequent cruel whippings for other faults, cutting and mangling men's bodies before the eyes of citizens; spectacles which ought never to be introduced into populous places. The worst sort of tumults and outrages, ever committed in this province, were excited by the tories. But more of this hereafter.

We are then told that the whigs erected a provincial democracy, or republic, in the province. I wish Massachusettensis knew what a democracy, or republic is. But this subject must be considered another time.

NOVANGLUS.

Messieurs Printers. Instead of *Cawings* of Cormorants, in a former paper, you have printed *Cooings*, too dove-like a word for the birds intended.

ADDRESSED

To the Inhabitants of the Colony of Massachusetts Bay,

February 20, 1775.

MY FRIENDS,

WE are at length arrived at the paper, on which I made a few strictures, some weeks ago: these I shall not repeat, but proceed to consider the other part of it.

We are told, "It is an universal truth, that he that would excite a rebellion, is at heart, as great a tyrant, as ever wielded the iron rod of oppression." Be it so. We are not exciting a rebellion. Opposition, nay open, avowed resistance by arms, against usurpation and lawless violence, is not rebellion by the law of God, or the land. Resistance to lawful authority makes rebellion. Hampden, Russell, Sydney, Somers,

Holt, Tillotson, Burnet, Hoadly, &c. were no tyrants nor rebels, although some of them were in arms, and the others undoubtedly excited resistance, against the tories. Do not beg the question, Mr. Massachusettensis, and then give yourself airs of triumph. Remember the frank Veteran acknowledges, that "the word rebel is a convertible term."

This writer next attempts to trace the spirit of opposition through the general court, and the courts of common law. "It was the policy of the whigs, to have their questions, upon high matters, determined by yea and nay votes, which were published in the gazettes." And ought not great questions to be so determined? In many other assemblies, New York particularly, they always are. What better can be devised to discover the true sense of the people? It is extremely provoking to courtiers, that they cannot vote, as the cabinet direct them, against their consciences, the known sense of their constituents, and the obvious good of the community, without being detected. Generally, perhaps universally, no unpopular measure in a free government, particularly the English, ought ever to pass. Why have the people a share in the legislature, but to prevent such measures from passing, I mean such as are disapproved by the people at large? But did not these yea and nay votes expose the whigs, as well as tories, to the impartial judgment of the public? If the votes of the former were given for measures injurious to the community, had not the latter an equal opportunity of improving them to the disadvantage of their adversaries in the next election? Besides, were not those few persons in the house, who generally voted for unpopular measures, near the governor, in possession of his confidence? Had they not the absolute disposal in their towns and counties

of the favour of government? Were not all the judges, justices, sheriffs, coroners and military officers in their towns, made upon their recommendation? Did not this give them a prodigious weight and influence? Had the whigs any such advantage? And does not the influence of these yea and nay votes, consequently prove to a demonstration, the unanimity of the people, against the measures of the court?

As to what is said of "severe strictures, illiberal invectives, abuse and scurrility, upon the dissentients," there was quite as much of all these published against the leading whigs. In truth, the strictures, &c. against the tories were generally nothing more, than hints at the particular place or office, which was known to be the temptation to vote against the country. That "the dissentient was in danger of losing his bread and involving his family in ruin," is equally injurious. Not an instance can be produced of a member losing his bread, or injuring his business, by voting for unpopular measures. On the contrary such voters never failed to obtain some lucrative employment, title, or honorary office, as a reward from the court.

If "one set of members in committee had always prepared the resolves," &c. which they did not; what would this prove, but that this set was thought by the house the fittest for the purpose? Can it ever be otherwise? Will any popular assembly choose its worst members for the best services? Will an assembly of patriots choose courtiers to prepare votes against the court? No resolves against the claims of parliament or administration, or the measures of the governor, (excepting those against the stamp act, and perhaps the answers to governor

Hutchinson's speeches upon the supremacy of parliament) ever passed through the house, without meeting an obstacle. The governor had to the last hour of the house's existence, always some seekers and expectants in the house, who never failed to oppose, and offer the best arguments they could; and were always patiently heard: that the lips of the dissentients were sealed up; that they sat in silence, and beheld with regret, measures they dared not oppose, are groundless suggestions and gross reflections upon the honour and courage of those members. The debates of this house were public, and every man, who has attended the gallery, knows there never was more freedom of debate in any assembly.

Massachusettensis, in the next place, conducts us to the agent, and tell us "there can not be a provincial agent without an appointment by the three branches of the assembly. The whigs soon found that they could not have such services rendered them, from a provincial agent as would answer their purposes."

The treatment this province has received, respecting the agency, since Mr. Hutchinson's administration commenced, is a flagrant example of injustice. There is no law, which requires the province to maintain any agent in England; much less is there any reason, which necessarily requires, that the three branches should join in the appointment. In ordinary times, indeed, when a harmony prevails among the branches, it is well enough to have an agent constituted by all. But in times when the foundations of the constitution are disputed, and certainly attacked by one branch or the other, to pretend that the house ought to join the governor in the choice, is a palpable absurdity. It is equivalent to saying that

the people shall have no agent at all; that all communication shall be cut off; and that there shall be no channel, through which complaints and petitions may be conveyed to the royal ear; because a governor will not concur in an agent whose sentiments are not like his; nor will an agent of the governor's appointment be likely to urge accusations against them, with any diligence or zeal, if the people have occasion to complain against him.

Every private citizen, much more, every representative body, has an undoubted right to petition the king, to convey such petition by an agent, and to pay him for his service. Mr. Bernard, to do him justice, had so much regard to these principles, as to consent to the payment of the people's agents, while he staid. But Mr. Hutchinson was scarcely seated in the chair, as lieutenant governor, before we had intelligence from England, that my lord Hillsborough told Dr. Franklin, he had received a letter from governor Hutchinson against consenting to the salary of the agent. Such an instruction was accordingly soon sent, and no agent for the board or house, has received a farthing for services, since that time, though Dr. Franklin and Mr. Bollan have taken much pains, and one of them expended considerable sums of money. There is a meanness in this play that would disgrace a gambler; a manifest fear that the truth should be known to the sovereign or the people. Many persons have thought that the province ought to have dismissed all agents from that time, as useless and nugatory; this behaviour amounting to a declaration, that we had no chance or hopes of justice from a minister.

But this province, at least as meritorious as any, has been long accustomed to indignities and injustice,

and to bear both with unparalleled patience. Others, have pursued the same method before and since; but we have never heard that their agents are unpaid. They would scarcely have borne it with so much resignation.

It is great assurance to blame the house for this, which was both their right and duty; but a stain in the character of his patron, which will not be soon worn out. Indeed this passage seems to have been brought in, chiefly for the sake of a stroke or two, addressed to the lowest and meanest of the people; I mean the insinuation that the two agents doubled the *expence*, which is as groundless as it is contracted; and that the ostensible agent for the province was only agent for a few individuals, that had got the art of wielding the house; and that several hundred sterling a year, for attending levees and writing letters, were worth preserving. We, my friends, know that no members have the art of wielding us or our house, but by concurring in our principles, and assisting us in our designs. Numbers in both houses have turned about and expected to wield us round with them; but they have been disappointed, and ever will be. Such apostates have never yet failed of our utter contempt, whatever titles, places or pensions they might obtain.

The agent has never echoed back, or transmitted to America, any sentiments, which he did not give in substance to governor Shirley, twenty years ago; and therefore this insinuation is but another slander. The remainder of what is said of the agency is levelled at Dr. Franklin, and is but a dull appendix to Wedderburn's ribaldry, having all his malice without any of his wit or spirit. Nero murdered Seneca, that he might pull up virtue by the roots; and the same

maxim governs the scribblers and speechifiers, on the side of the minister. It is sufficient to discover that any man has abilities and integrity, a love of virtue and liberty; he must be run down at all events. Witness Pitt and Franklin and too many others.

My design in pursuing this malicious slanderer, concealed as he is, under so soft and oily an appearance, through all the doublings of his tedious course, is to vindicate this Colony from his base aspersions; that strangers now among us and the impartial public may see the wicked arts, which are still employed against us. After the vilest abuse upon the agent of the province and the house, that appointed him, we are brought to his majesty's council, and are told that the "whigs reminded them of their mortality—If any one opposed the violent measures, he lost his election next May. Half the whole number, mostly men of the first families, note, abilities, attached to their native country, wealthy and independent, were tumbled from their seats in disgrace. Thus the board lost its weight, and the political balance was destroyed."

It is impossible for any man acquainted with this subject to read this zealous rant, without smiling, until he attends to the wickedness of it, which will provoke his utmost indignation. Let us however consider it soberly.

From the date of our charter, to the time of the stamp act, and indeed since that time (notwithstanding the misrepresentations of our charter constitution, as too popular and republican) the council of this province have been generally on the side of the governor and the prerogative. For the truth of this, I appeal to our whole history and

experience. The art and power of governors, and especially the negative, have been a stronger motive on the one hand, than the annual election of the two houses on the other. In disputes between the governor and the house, the council have generally adhered to the former, and in many cases have complied with his humour, when scarcely any council by mandamus, upon this continent, would have done it.

But in the time of the stamp act, it was found productive of many mischiefs and dangers, to have officers of the crown, who were dependant on the ministry, and judges of the superior court, whose offices were thought incompatible with a voice in the legislature, members of council.

In May 1765, Lt. Gov. Hutchinson, Sec. Oliver, and Mr. Belcher were officers of the crown, the judges of the superior court, and some other gentlemen, who held commissions under the governor, were members of council. Mr. Hutchinson was chief justice and a judge of probate for the first county, as well as lieutenant governor, and a counsellor; too many offices for the greatest and best man in the world to hold, too much business for any man to do; besides, that these offices were frequently clashing and interfering with each other. Two other justices of the superior court were counsellors, and nearly and closely connected with him by family alliances. One other justice was judge of admiralty during pleasure. Such a jumble of offices never got together before in any English government. It was found in short, that the famous triumvirate, Bernard, Hutchinson and Oliver, the ever memorable, secret, confidential letter writers, whom I call the junto, had by degrees, and before the people were aware of it, erected a

tyranny in the province. Bernard had all the executive, and a negative on the legislative; Hutchinson and Oliver, by their popular arts and secret intrigues, had elevated to the board, such a collection of crown officers, and their own relations, as to have too much influence there; and they had three of a family on the superior bench, which is the supreme tribunal in all causes civil and criminal, vested with all the powers of the king's bench, common pleas and exchequer, which gave them power over every act of this court. This junto therefore had the legislative and executive in their controul, and more natural influence over the judicial, than is ever to be trusted to any set of men in the world. The public accordingly found all these springs and wheels in the constitution set in motion to promote submission to the stamp act, and to discountenance resistance to it; and they thought they had a violent presumption, that they would forever be employed to encourage a compliance with all ministerial measures and parliamentary claims, of whatever character they might be.

The designs of the junto, however, were concealed as carefully as possible. Most persons were jealous; few were certain. When the assembly met in May, 1766, after the stamp act was repealed, the whigs flattered themselves with hopes of peace and liberty for the future. Mr. Otis, whose abilities and integrity, whose great exertions, and most exemplary sacrifices of his private interest to the public service, had entitled him to all the promotion, which the people could bestow, was chosen speaker of the house. Bernard negatived the choice. It can scarcely be conceived by a stranger, what an alarm this manœuvre gave to the public. It was thought equivalent to a declaration, that although the people had been so successful as to

obtain a repeal of the stamp act, yet they must not hope to be quiet long, for parliament, by the declaratory act, had asserted its supreme authority, and new taxations and regulations should be made, if the junto could obtain them: and every man who should dare to oppose such projects, let his powers, or virtues, his family or fortune be what they would, should be surely cut off from all hopes of advancement. The electors thought it high time to be upon their guard. All the foregoing reasons and motives prevailed with the electors; and the crown officers and justices of the supreme court, were left out of council in the new choice. Those who were elected in their places were all negatived by Bernard, which was considered as a fresh proof, that the junto still persevered in their designs of obtaining a revenue, to divide among themselves.

The gentlemen elected anew, were of equal fortune and integrity, at least, and not much inferior in abilities to those left out, and indeed, in point of fortune, family, note or abilities, the councils which have been chosen from that time to this, taken on an average, have been very little inferior, if any, to those chosen before. Let Massachusettensis descend if he will, to every particular gentleman by name through the whole period, and I will make out my assertion.

Every impartial person will not only think these reasons a full vindication of the conduct of the two houses, but that it was their indispensable duty to their country, to act the part they did; and the course of time, which has developed the dark intrigues of the junto, before and since, has confirmed the rectitude and necessity of the measure. Had Bernard's principles of polity been published and known at that

time, no member of the house, who should have voted for any of the persons then left out, if it was known to his constituents, would ever have obtained another election.

By the next step we rise to the chair. "With the board, the chair fell likewise," he says. But what a slander is this? Neither fell; both remained in as much vigour as ever. The junto it is true, and some other gentlemen who were not in their secret, but however had been misled to concur in their measures, were left out of council. But the board had as much authority as ever. The board of 1766 could not have influenced the people to acknowledge the supreme uncontroulable authority of parliament, nor could that of 1765, have done it. So that by the chair, and the boards falling, he means no more, if his meaning has any truth in it, than that the junto fell; the designs of taxing the Colonies fell, and the schemes for destroying all the charters on the continent and for erecting lordships fell. These, it must be acknowleged, fell very low indeed, in the esteem of the people, and the two houses.

"The governor," says our wily writer, "could do little or nothing without the council, by the charter." "If he called upon a military officer to raise the militia, he was answered they were there already," &c. The council, by the charter, had nothing to do with the militia. The governor alone had all authority over them. The council therefore are not to blame for their conduct. If the militia refused obedience to the captain general, or his subordinate officer, when commanded to assist in carrying into execution the stamp act, or in dispersing those who were opposing it, does not this prove the universal sense and resolution of the people not to submit to it? Did not a

regular army do more to James the second? If those, over whom the governor had the most absolute authority and decisive influence, refused obedience, does not this show how deeply rooted in all men's minds was the abhorrence of that unconstitutional power which was usurping over them? "If he called upon the council for their assistance, they must first inquire into the cause." An unpardonable crime, no doubt! But is it the duty of a middle branch of legislature, to do as the first shall command them, implicitly, or to judge for themselves? Is it the duty of a privy council, to understand the subject before they give advice, or only to lend their names to any edict, in order to make it less unpopular? It would be a shame to answer such observations as these, if it was not for their wickedness. Our council, all along however did as much as any council could have done. Was the mandamus council at New York able to do more, to influence the people to a submission to the stamp act? Was the chair, the board, the septennial house, with the assistance of general Gage and his troops, able to do more, in that city, than our branches did in this province? Not one iota. Nor could Bernard, his council, and house, if they had been unanimous, have induced submission. The people would have spurned them all, for they are not to be wheedled out of their liberties by their own representatives, anymore than by strangers. "If he wrote to government at home to strengthen his hands, some officious person procured and sent back his letters." At last it seems to be acknowledged, that the governor did write for a military force, to strengthen government. For what? to enable it to enforce stamp acts, tea acts, and other internal regulations, the authority of which the people were determined never to acknowledge.

But what a pity it was, that these worthy gentlemen could not be allowed, from the dearest affection to their native country, to which they had every possible attachment, to go on in profound confidential secrecy, procuring troops to cut our throats, acts of parliament to drain our purses, destroy our charters and assemblies, getting estates and dignities for themselves and their own families, and all the while most devoutly professing to be friends to our charter, enemies to parliamentary taxation, and to all pensions, without being detected? How happy! if they could have annihilated all our charters, and yet have been beloved, nay deified by the people, as friends and advocates for their charters? What masterly politicians! to have made themselves nobles for life, and yet have been thought very sorry, that the two houses were denied the privilege of choosing the council? How sagacious, to get large pensions for themselves, and yet be thought to mourn, that pensions and venality were introduced into the country? How sweet and pleasant! to have been the most popular men in the community, for being staunch and zealous dissenters, true blue Calvinists, and able advocates for public virtue and popular government, after they had introduced an American Episcopate, universal corruption among the leading men, and deprived the people of all share in their supreme legislative council? I mention an Episcopate, for although I do not know that governors Hutchinson and Oliver ever directly solicited for bishops, yet they must have seen, that these would have been one effect, very soon, of establishing the unlimited authority of parliament!

I agree with this writer, that it was not the persons of Bernard, Hutchinson or Oliver, that made them

obnoxious; but their principles and practices. And I will agree, that if Chatham, Campden and St. Asaph, (I beg pardon for introducing these reverend names into such company, and for making a supposition which is absurd) had been here, and prosecuted such schemes, they would have met with contempt and execration from this people. But when he says, "that had the intimations in those letters been attended to, we had now been as happy a people as good government could make us," it is too gross to make us angry. We can do nothing but smile. Have not these intimations been attended to? Have not fleets and armies been sent here, whenever they requested? Have not governors', lieutenant governors', secretaries', judges', attorney generals', and solicitor generals' salaries been paid out of the revenue as they solicited? Have not taxes been laid, and continued? Have not English liberties been abridged as Hutchinson desired? Have not "penalties of another kind" been inflicted, as he desired? Has not our charter been destroyed, and the council put into the king's hands, as Bernard requested? In short, almost all the wild mock pranks of this desperate triumvirate have been attended to and adopted, and we are now as miserable as tyranny can well make us. That Bernard came here with the affections of New Jersey, I never heard nor read, but in this writer. His abilities were considerable, or he could not have done such extensive mischief. His true British honesty and punctuality will be acknowledged by none, but such as owe all their importance to flattering him.

That Hutchinson was amiable and exemplary, in some respects, and very unamiable and unexemplary, in others, is a certain truth; otherwise he never would have retained so much popularity on one

hand, nor made so pernicious a use of it on the other. His behavior, in several important departments, was with ability and integrity, in cases which did not effect his political system, but he bent all his offices to that. Had he continued stedfast to those principles in religion and government, which in his former life he professed, and which alone had procured him the confidence of the people and all his importance, he would have lived and died, respected and beloved, and have done honor to his native country. But by renouncing these principles and that conduct, which had made him and all his ancestors respectable, his character is now considered by all America, and the best part of the three kingdoms, notwithstanding the countenance he receives from the ministry, as a reproach to the province that gave him birth, as a man who by all his actions aimed at making himself great, at the expense of the liberties of his native country. This gentleman was open to flattery, in so remarkable a degree, that any man who would flatter him was sure of his friendship, and every one who would not, was sure of his enmity. He was credulous, in a rediculous degree, of every thing that favoured his own plans, and equally incredulous of every thing which made against them. His natural abilities which have been greatly exaggerated by persons whom he had advanced to power, were far from being of the first rate. His industry was prodigious. His knowledge lay chiefly in the laws and politics and history of this province, in which he had a long experience. Yet with all his advantages, he never was master of the true character of his native country, not even of New England and the Massachusetts Bay. Through the whole troublesome period since the last war, he manifestly mistook the temper, principles, and opinions of this people. He had resolved upon a

system, and never could or would see the impracticability of it.

It is very true that all his abilities, virtues, interests and connections, were insufficient; but for what? To prevail on the people to acquiesce in the mighty claim of parliamentary authority. The constitution was not gone. The suggestion, that it was, is a vile slander. It had as much vigour as ever, and even the governor had as much power as ever, excepting in cases which affected that claim. "The spirit" says this writer "was truly republican." It was not so in any one case whatever; any further than the spirit of the British constitution is republican. Even in the grand fundamental dispute, the people arranged themselves under their house of representatives and council, with as much order as ever, and conducted their opposition as much by the constitution as ever. It is true their constitution was employed against the measures of the junto, which created their enmity to it. However I have not such an horror of republican spirit, which is a spirit of true virtue, and honest independence; I do not mean on the king, but on men in power. This spirit is so far from being incompatible with the British constitution, that it is the greatest glory of it, and the nation has always been most prosperous, when it has most prevailed and been most encouraged by the crown. I wish it increased in every part of the world, especially in America; and I think the measures, the tories are now pursuing, will increase it to a degree that will ensure us, in the end, redress of grievances and an happy reconciliation with Great Britain.

"Governor Hutchinson strove to convince us, by the principles of government, our charters and

acknowledgments, that our claims were inconsistent with the subordination due to Great Britain," &c. says this writer.

Suffer me to introduce here, a little history. In 1764, when the system of taxing and new modelling the Colonies was first apprehended, lieutenant governor Hutchinson's friends struggled in several successive sessions of the general court, to get him chosen agent for the province at the court of Great Britain. At this time he declared freely, *that he was of the same sentiment with the people, that parliament had no right to tax them; but differed from the country party, only in his opinion of the policy of denying that right, in their petitions*, &c. I would not injure him; I was told this by three gentlemen who were of the committee of both houses, to prepare that petition, that he made this declaration explicitly before that committee. I have been told by other gentlemen that he made the same declaration to them. It is possible that he might make use of expressions studied for the purpose, which would not strictly bear this construction. But it is certain that they understood him so, and that this was the general opinion of his sentiments until he came to the chair.

The country party saw, that this aspiring genius aimed at keeping fair with the ministry, by supporting their measures, and with the people, by pretending to be of our principles, and between both to trim himself up to the chair. The only reason why he did not obtain an election at one time, and was excused from the service at another, after he had been chosen by a small majority, was because the members knew he would not openly deny the right, and assure his majesty, the parliament, and ministry, that the people never would submit to it. For the

same reason he was left out of council. But he continued to cultivate his popularity, and to maintain a general opinion among the people, that he denied the right in his private judgment, and this idea preserved most of those who continued their esteem for him.

But upon Bernard's removal, and his taking the chair as lieutenant governor, he had no farther expectations from the people nor complaisance for their opinions. In one of his first speeches he took care to advance the supreme authority of parliament. This astonished many of his friends. They were heard to say, we have been deceived. We thought he had been abused, but we now find what has been said of him is true. He is determined to join in the designs against this country. After his promotion to the government, finding that the people had little confidence in him, and shewing that he had no interest at home to support him, but what he had acquired by joining with Bernard in kicking up a dust, he determined to strike a bold stroke, and in a formal speech to both houses, became a champion for the unbounded authority of parliament, over the Colonies. This he thought would lay the ministry under obligation to support him in the government, or else to provide for him out of it, not considering that starting that question before that assembly, and calling upon them, as he did, to dispute with him upon it, was scattering firebrands, arrows and death in sport. The arguments he then advanced were inconclusive indeed: but they shall be considered, when I come to the feeble attempt of Massachusettensis to give a colour to the same position.

The house, thus called upon, either to acknowledge

the unlimited authority of parliament, or confute his arguments, were bound by their duty to God, their country and posterity, to give him a full and explicit answer. They proved incontestibly, that he was out in his facts, inconsistent with himself, and in every principle of his law, he had committed a blunder. Thus the fowler was caught in his own snare; and although this country has suffered severe temporary calamities in consequence of this speech, yet I hope they will not be durable; but his ruin was certainly in part owing to it. Nothing ever opened the eyes of the people so much, as his designs, excepting his letters. Thus it is the fate of Massachusettensis to praise this gentleman, for these things which the wise part of mankind condemn in him, as the most insidious and mischievous of actions. If it was out of his power to do us any more injuries, I should wish to forget the past; but as there is reason to fear he is still to continue his malevolent labours against this country, although he is out of our sight, he ought not to be out of our minds. This country has every thing to fear, in the present state of the British court, while the lords Bute, Mansfield and North have the principal conduct of affairs, from the deep intrigues of that artful man.

To proceed to his successor, whom Massachusettensis has been pleased to compliment with the epithet of "amiable." I have no inclination to detract from this praise, but have no panegyricks or invectives for any man, much less for any governor, until satisfied of his character and designs. This gentleman's conduct, although he came here to support the systems of his two predecessors, and contracted to throw himself into the arms of their connections, when he has acted himself, and not been teased by others much less amiable and judicious than himself, into measures

which his own inclination would have avoided, has been in general as unexceptionable as could be expected, in his very delicate, intricate and difficult situation.

We are then told "that disaffection to Great Britain was infused into the body of the people." The leading whigs, have ever, systematically, and upon principle, endeavoured to preserve the people from all disaffection to the king on the one hand, and the body of the people on the other; but to lay the blame where it is justly due on the ministry and their instruments.

We are next conducted into the superior court, and informed "that the judges were dependant on the annual grants of the general court; that their salaries were small in proportion to the salaries of other officers, of less importance; that they often petitioned the assembly to enlarge them, without success, and were reminded of their dependance; that they remained unshaken amid the raging tempests, which is to be attributed rather to their firmness than situation."

That the salaries were small, must be allowed: but not smaller in proportion than those of other officers. All salaries in this province have been and are small. It has been the policy of the country to keep them so, not so much from a spirit of parsimony, as an opinion, that the service of the public ought to be an honorary, rather than a lucrative employment; and that the great men ought to be obliged to set examples of simplicity and frugality before the people.

But if we consider things maturely, and make allowance for all circumstances, I think the country

may be vindicated. This province, during the last war, had such overbearing burdens upon it, that it was necessitated to use economy in every thing. At the peace she was half a million sterling in debt, nearly. She thought it the best policy to get out of debt, before she raised the wages of her servants; and if Great Britain had thought as wisely, she would not now have had 140 millions to pay; and she would never have thought of taxing America.

Low as the wages were, it was found that, whenever a vacancy happened, the place was solicited with much more anxiety and zeal, than the kingdom of heaven.

Another cause which had its effect was this. The judges of that court had almost always enjoyed some other office. At the time of the stamp act the chief justice was lieutenant governor, which yielded him a profit, and a judge of probate for the county of Suffolk, which yielded him another profit, and a counsellor, which if it was not very profitable, gave him an opportunity of promoting his family and friends to other profitable offices, an opportunity which the country saw he most religiously improved. Another justice of this court was a judge of admiralty, and another was judge of probate for the county of Plymouth. The people thought therefore, that as their time was not wholly taken up by their offices, as judges of the superior court, there was no reason why they should be paid as much, as if it had been.

Another reason was this: those justices had not been bred to the bar, but taken from merchandise, husbandry and other occupations; had been at no great expence for education, or libraries, and

therefore the people thought that equity did not demand large salaries.

It must be confessed that another motive had its weight. The people were growing jealous of the chief justice and two other justices at least, and therefore thought it imprudent to enlarge their salaries, and by that means their influence.

Whether all these arguments were sufficient to vindicate the people for not enlarging their salaries, I shall leave to you, my friends, whose right it is to judge. But that the judges petitioned "often" to the assembly I do not remember. I knew it was suspected by many, and confidently affirmed by some, that judge Russell carried home with him, in 1766, a petition to his majesty, subscribed by himself, and chief justice Hutchinson at least, praying his majesty to take the payment of the judges into his own hands; and that this petition, together with the solicitations of governor Bernard, and others, had the success to procure the act of parliament, to enable his majesty to appropriate the revenue to the support of the administration of justice, &c. from whence a great part of the present calamities of America have flowed.

That the high whigs took *care* to get themselves chosen of the grand juries I do not believe. Nine tenths of the people were high whigs; and therefore it was not easy to get a grand jury without nine whigs in ten, in it. And the matter would not be much mended by the new act of parliament. The sheriff must return the same set of jurors, court after court, or else his juries would be nine tenths of them high whigs still. Indeed the tories are so envenomed now with malice, envy, revenge and disappointed

ambition, that they would be willing, for what I know, to be jurors for life, in order to give verdicts against the whigs. And many of them would readily do it, I doubt not, without any other law or evidence, than what they found in their own breasts. The suggestion of legerdemain, in drawing the names of petit jurors out of the box, is scandalous. Human wisdom cannot devise a method of obtaining petit jurors more fairly, and better secured against a possibility of corruption of any kind, than that established by our provincial law. They were drawn by chance out of a box, in open town meeting, to which the tories went, or might have gone, as well as the whigs, and have seen with their own eyes, that nothing unfair ever did or could take place. If the jurors consisted of whigs, it was because the freeholders were whigs, that is honest men. But now, it seems, if Massachusettensis can have his will, the sheriff, who will be a person properly qualified for the purpose, is to pick out a tory jury, if he can find one in ten, or one in twenty of that character among the freeholders; and it is no doubt expected, that every newspaper that presumes to deny the right of parliament to tax us, or destroy our charter, will be presented as a libel, and every member of a committee of correspondence, or a congress, &c. &c. &c. are to be indicted for rebellion. These would be pleasant times to Massachusettensis and the junto, but they will never live to see them.

"The judges pointed out seditious libels, on governors, magistrates, and the whole government to no effect." They did so. But the jurors thought some of these no libels, but solemn truths. At one time, I have heard that all the newspapers for several years, the Massachusetts Gazette, Evening Post, Boston Chronicle, Boston Gazette, and Massachusetts Spy,

were laid before a grand jury at once. The jurors thought there were multitudes of libels written by the tories, and they did not know whom they should attack, if they presented them; perhaps governor Bernard, lieut. governor Hutchinson, secretary Oliver —possibly the attorney general. They saw so many difficulties they knew not what to do.

As to the riots and insurrections, it is surprising that this writer should say "scarce one offender was indicted, and I think not one convicted." Were not many indicted, convicted, and punished too in the county of Essex, and Middlesex, and indeed in every other county? But perhaps he will say, he means such as were connected with politicks. Yet this is not true, for a large number in Essex were punished for abusing an informer, and others were indicted and convicted in Boston for a similar offence. None were indicted for pulling down the stamp office, because this was thought an honorable and glorious action, not a riot. And so it must be said of several other tumults. But was not this the case in royal as well as charter governments? Nor will this inconvenience be remedied by a sheriff's jury, if such an one should ever sit. For if such a jury should convict, the people will never bear the punishment. It is in vain to expect or hope to carry on government, against the universal bent and genius of the people; we may whimper and whine as much as we will, but nature made it impossible, when she made men.

If causes of *meum* and *tuum* were not always exempt from party influence, the tories will get no credit by an examination into particular cases. Though I believe there was no great blame on either party, in this respect, where the case was not connected with politicks.

We are then told "the whigs once flattered themselves they should be able to divide the province between them." I suppose he means, that they should be able to get the honorable and lucrative offices of the province into their hands. If this was true, they would be chargeable with only designing what the tories have actually done; with this difference, that the whigs would have done it by saving the liberties and the constitution of the province—whereas the tories have done it by the destruction of both. That the whigs have ambition, a desire of profit, and other passions, like other men, it would be foolish to deny. But this writer cannot name a set of men in the whole British empire, who have sacrificed their private interest to their nation's honour, and the public good, in so remarkable a manner, as the leading whigs have done, in the two last administrations.

"As to cutting asunder the sinews of government and breaking in pieces the ligament of social life," as far as this has been done, I have proved by incontestible evidence from Bernard's, Hutchinson's and Oliver's letters, that the tories have done it, against all the endeavours of the whigs to prevent them from first to last.

The public is then amused with two instances of the weakness of our government, and these are, with equal artifice and injustice, insinuated to be chargeable upon the whigs. But the whigs are as innocent of these, as the tories. Malcom was as much against the inclinations and judgment of the whigs as the tories. But the real injury, he received, is exaggerated by this writer. The cruelty of his whipping, and the danger of his life, are too highly coloured.

Malcom was such an oddity as naturally to excite the curiosity and ridicule of the lowest class of people, wherever he went: had been active in battle against the regulators in North Carolina, who were thought in Boston to be an injured people. A few weeks before, he had made a seizure at Kennebeck river, 150 miles from Boston, and by some imprudence had excited the wrath of the people there, in such a degree, that they tarred and feathered him over his clothes. He comes to Boston to complain. The news of it was spread in town. It was a critical time, when the passions of the people were warm. Malcom attacked a lad in the street, and cut his head with a cutlass, in return for some words from the boy, which I suppose were irritating. The boy run bleeding through the street to his relations, of whom he had many. As he passed the street, the people inquired into the cause of his wounds, and a sudden heat arose against Malcom, which neither whigs nor tories, though both endeavoured it, could restrain; and produced the injuries of which he justly complained. But such a coincidence of circumstances might, at any time, and in any place, have produced such an effect; and therefore it is no evidence of the weakness of government. Why he petitioned the general court, unless he was advised to it by the tories, to make a noise, I know not. That court had nothing to do with it. He might have brought his action against the trespassers, but never did. He chose to go to England and get 200l. a year, which would make his tarring the luckiest incident of his life.

The hospital at Marblehead is another instance, no more owing to the politicks of the times, than the burning of the temple at Ephesus. This hospital was newly erected, much against the will of the

multitude. The patients were careless, some of them wantonly so, and others were suspected of designing to spread the small pox in the town, which was full of people, who had not passed through the distemper. It is needless to be particular, but the apprehension became general, the people arose and burnt the hospital. But the whigs are so little blameable for this, that two of the principal whigs in the province, gentlemen highly esteemed and beloved in the town, even by those who burnt the building, were owners of it. The principles and temper of the times had no share in this, any more than in cutting down the market in Boston, or in demolishing mills and dams in some parts of the country, in order to let the alewives pass up the streams, forty years ago. Such incidents happen in all governments at times, and it is a fresh proof of the weakness of this writer's cause, that he is driven to such wretched shifts to defend it.

Towards the close of this long speculation, Massachusettensis grows more and more splenetical, peevish, angry and absurd.

He tells us, that in order to avoid the necessity of altering our provincial constitution, government at home made the judges independent of the grants of the general assembly. That is, in order to avoid the hazard of taking the fort by storm, they determined to take it by sap. In order to avoid altering our constitution, they changed it in the most essential manner: for surely by our charter the province was to pay the judges as well as the governor. Taking away this privilege, and making them receive their pay from the crown, was destroying the charter so far forth, and making them dependent on the minister. As to their being dependent on the leading

whigs, he means they were dependent on the province. And which is fairest to be dependent on, the province or on the minister? In all this troublesome period, the leading whigs had never hesitated about granting their salaries, nor ever once moved to have them lessened, nor would the house have listened to them if they had. "This was done, he says, to make them steady." We know that very well. Steady to what? Steady to the plans of Bernard, Hutchinson, Oliver, North, Mansfield and Bute; which the people thought was steadiness to their ruin, and therefore it was found, that a determined spirit of opposition to it arose, in every part of the province, like that to the stamp act.

The chief justice, it is true, was accused by the house of representatives, of receiving a bribe, a ministerial, not a royal bribe. For the king can do no wrong, although he may be deceived in his grant. The minister is accountable. The crime of receiving an illegal patent, is not the less for purchasing it, even of the king himself. Many impeachments have been for such offences.

He talks about attempts to strengthen government, and save our charter. With what modesty can he say this, when he knows that the overthrow of our charter was the very object which the junto had been invariably pursuing for a long course of years? Does he think his readers are to be deceived by such gross arts? But he says "the whigs subverted the charter constitution, abridged the freedom of the house, annihilated the freedom of the board, and rendered the governor a doge of Venice." The freedom of the house was never abridged, the freedom of the board was never lessened. The governor had as much power as ever. The house and board, it is true, would

do nothing in favour of parliamentary taxation. Their judgments and consciences were against it; and if they ever had done any thing in favour of it, it would have been through fear and not freedom. The governor found he could do nothing in favour of it, excepting to promote, in every department in the state, men who hated the people and were hated by them. Enough of this he did in all conscience; and after filling offices with men who were despised, he wondered that the officers were not revered. "They, the whigs, engrossed all the power of the province into their own hands." That is, the house and board were whigs; the grand juries and petit juries were whigs; towns were whigs; the clergy were whigs; the agents were whigs; and wherever you found people, you found all whigs; excepting those who had commissions from the crown or the governor. This is almost true, and it is to the eternal shame of the tories, that they should pursue their ignis fatuus with such ungovernable fury as they have done, after such repeated and multiplied demonstrations, that the whole people were so universally bent against them. But nothing will satisfy them still, but blood and carnage. The destruction of the whigs, charters, English liberties and all, they must and will have, if it costs the blood of tens of thousands of innocent people. This is the benign temper of the tories.

This influence of the whigs, he calls a democracy or republic, and then a despotism: two ideas incompatible with each other. A democratical despotism is a contradiction in terms.

He then says, that "the good policy of the act for regulating the government in this province, will be the subject of some future paper." But that paper is still to come, and I suspect ever will be. I wish to

hear him upon it however.

With this, he and the junto ought to have begun. Bernard and the rest, in 1764, ought to have published their objections to this government, if they had been honest men, and produced their arguments in favour of the alteration, convinced the people of the necessity of it, and proposed some constitutional plan for effecting it. But the same motives which induced them to take another course, will prevail with Massachusettensis to wave the good policy of the act. He will be much more cunningly employed in labouring to terrify women and children with the horrors of a civil war, and the dread of a division among the people. There lies your fort, Massachusettensis, make the most of it.

NOVANGLUS.

ADDRESSED

To the Inhabitants of the Colony of Massachusetts Bay,

February 27, 1775.

MY FRIENDS,

SUCH events as the resistance to the stamp act, and to the tea act, particularly the destruction of that which was sent by the ministry, in the name of the East India Company, have ever been cautiously spoken of by the whigs, because they knew the delicacy of the subject, and they lived in continual hopes of a speedy restoration of liberty and peace. But we are now thrown into a situation, which would render any further delicacy upon this point criminal.

Be it remembered then, that there are tumults, seditions, popular commotions, insurrections and civil wars, upon just occasions, as well as unjust.

Grotius B. 1. c. 3. § 1. observes, "that some sort of private war may be lawfully waged—It is not repugnant to the law of nature, for any one to repel injuries by force."

§ 2. The liberty allowed before is much restrained, since the erection of tribunals. Yet there are some cases wherein that right still subsists; that is, when the way to legal justice is not open; for the law which forbids a man to pursue his right any other way, ought to be understood with this equitable restriction, that one finds judges to whom he need apply, &c.

Sidney's discourses upon government c. 2. § 24. 'Tis in vain to seek a government in all points free from a possibility of civil wars, tumults and seditions: that is a blessing denied to this life, and reserved to complete the felicity of the next. Seditions, tumults, and wars do arise from mistake or from malice; from just occasions or unjust. Seditions proceeding from malice are seldom or never seen in popular governments; for they are hurtful to the people, and none have ever willingly and knowingly hurt

themselves. There may he, and often is, malice in those who excite them; but the people is ever deceived, and whatever is thereupon done, ought to be imputed to error, &c. But in absolute monarchies, almost all the troubles that arise proceed from malice; they cannot be reformed; the extinction of them is exceeding difficult, if they have continued long enough to corrupt the people; and those who appear against them seek only to set up themselves or their friends. The mischiefs designed are often dissembled, or denied, till they are past all possibility of being cured by any other way than force; and such as are by necessity driven to use that remedy, know they must perfect their work or perish. He that draws his sword against the prince, say the French, ought to throw away the scabbard; for though the design be never so just, yet the authors are sure to be ruined if it miscarry. Peace is seldom made, and never kept, unless the subject retain such a power in his hands, as may oblige the prince to stand to what is agreed; and in time some trick is found to deprive him of that benefit.

It may seem strange to some that I mention seditions, tumults and wars, upon just occasions; but I can find no reason to retract the terms. God, intending that men should live justly with one another, does certainly intend that he or they, who do no wrong, should suffer none; and the law that forbids injuries, were of no use, if no penalty might be inflicted on those, that will not obey it. If injustice therefore be evil, and injuries be forbidden, they are also to be punished; and the law, instituted for their prevention, must necessarily intend the avenging of such as cannot be prevented. The work of the magistracy is to execute this law; the sword of justice is put into their hands to restrain the fury of those

within the society, who will not be a law to themselves; and the sword of war to protect the people against the violence of foreigners. This is without exception, and would be in vain if it were not. But the magistrate who is to protect the people from injury, may, and is often known, not to have done it: he sometimes renders his office *useless by neglecting to do justice*; sometimes *mischievous by overthrowing it*. This strikes at the root of God's general ordinance, that there should be laws; and the particular ordinances of all societies that appoint such as seem best to them. *The magistrate therefore is comprehended under both, and subject to both, as well as private men.*

The ways of preventing or punishing injuries are judicial or extrajudicial. Judicial proceedings are of force against those who submit, or may be brought to trial, but are of no effect against those who resist, and are of such power that they cannot be constrained. It were absurd to cite a man to appear before a tribunal, *who can awe the judges, or has armies to defend him*; and impious to think that he who has added treachery to his other crimes, and usurped a power above the law, should be protected by the enormity of his wickedness. Legal proceedings, therefore, are to be used when the delinquent submits to the law; *and all are just; when he will not be kept in order by the legal.*

The word sedition is generally applied to all numerous assemblies, without or against the authority of the magistrate, or of those who assume that power. Athaliah and Jezebel were more ready to cry out treason, than David, &c.

Tumult is from the disorderly manner of those

assemblies, where things can seldom be done regularly; and war is that "decertatio per vim," or trial by force, to which men come, when other ways are ineffectual.

If the laws of God and men, are therefore of no effect, when the magistracy is left at liberty to break them; and if the lusts of those who are too strong for the tribunals of justice, cannot be otherwise restrained than by sedition, tumults and war; those seditions, tumults and wars, are justified by the laws of God and man.

I will not take upon me to enumerate all the cases in which this may be done, but content myself with three, which have most frequently given occasion for proceedings of this kind. The first is, when one or more men take upon them the power and name of a magistracy, to which they are not justly called. The second, when one or more being justly called, continue in their magistracy longer than the laws by which they are called, do prescribe. And the third, when he or they, who are rightly called, do assume a power, though within the time prescribed, that the law does not give; or turn that which the law does give, to an end different and contrary to that which is intended by it.

The same course is justly used against a legal magistrate, who takes upon him to exercise a power which the law does not give; for in that respect he is a private man. "Quia, as Grotius says, eatenus non habet imperium," and may be restrained as well as any other, because he is not set up to do what he lists, but what the law appoints for the good of the people; and as he has no other power than what the law allows, so the same law limits and directs the

exercise of that which he has.

Puffendorf's law of nature and nations L. 7. c. 8. § 5 and 6. Barbeyrac's note on section 6. When we speak of a tyrant that may lawfully be dethroned, we do not mean by the people, the vile populace or rabble of the country, nor the cabal of a small number of factious persons; but the greater and more judicious part of the subjects of all ranks. Besides the tyranny must be so notorious and evidently clear, as to leave no body any room to doubt of it, &c. Now a prince may easily avoid making himself so universally suspected and odious to his subjects; for as Mr. Locke says, in his treatise of civil government, c. 18 § 209. "It is as impossible for a governor, if he really means the good of the people and the preservation of them and the laws together, not to make them see and feel it; as it is for the father of a family, not to let his children see he loves and takes care of them." And therefore the general insurrection of a whole nation does not deserve the name of a rebellion. We may see what Mr. Sidney says upon this subject in his discourse concerning government c. 3. § 36. Neither are subjects bound to stay till the prince has entirely finished the chains which he is preparing for them, and put it out of their power to oppose. It is sufficient that all the advances which he makes are manifestly tending to their oppression, that he is marching boldly on to the ruin of the state. In such a case, says Mr. Locke, admirably well, ubi supra § 210. "How can a man any more hinder himself from believing in his own mind, which way things are going, or from casting about to save himself, than he could from believing the captain of the ship he was in, was carrying him and the rest of his company to Algiers, when he found him always steering that course, though cross winds, leaks in his ship and

want of men and provisions, did often force him to turn his course another way for some time, which he steadily returned to again, as soon as the winds, weather, and other circumstances would let him." This chiefly takes place with respect to kings, whose power is limited by fundamental laws.

If it is objected, that the people being ignorant, and always discontented, to lay the foundation of government, in the unsteady opinion and the uncertain humour of the people, is to expose it to certain ruin; the same author will answer you, that on the contrary, people are not so easily got out of their old forms as some are apt to suggest. England, for instance, notwithstanding the many revolutions that have been seen in that kingdom, has always kept to its old legislative of king, lords, and commons; and whatever provocations have made the crown to be taken from some of their princes' heads, they never carried the people so far as to place it in another line. But it will be said, this hypothesis lays a ferment for frequent rebellion. No more, says Mr. Locke, than any other hypothesis. For when the people are made miserable, and find themselves exposed to the ill usage of arbitrary power; cry up their governors as you will for sons of Jupiter, let them be sacred and divine, descended or authorised from heaven; give them out for whom or what you please, the same will happen. The people generally ill treated, and contrary to right, will be ready upon any occasion to ease themselves of a burden that sits heavy upon them. 2. Such revolutions happen not upon every little mismanagement in public affairs. Great mistakes in the ruling part, many wrong and inconvenient laws, and all the slips of human frailty will be borne by the people, without mutiny and murmur. 3. This power in the people of providing for

their safety anew by a legislative, when their legislators have acted contrary to their trust, by invading their property, is the best fence against rebellion, and the probablest means to hinder it; for rebellion being an opposition, not to persons, but authority, which is founded only in the constitutions and laws of the government; those whoever they be, *who by force break through, and by force justify the violation of them, are truly and properly rebels*. For when men by entering into society, and civil government, have excluded force, and introduced laws for the preservation of property, peace and unity, among themselves; those who set up force again, in opposition to the laws, do rebellare, that is, do bring back again the state of war, and are properly, rebels, as the author shews. In the last place, he demonstrates that there are also greater inconveniencies in allowing all to those that govern, than in granting something to the people. But it will be said, that ill affected and factious men may spread among the people, and make them believe that the prince or legislative, act contrary to their trust, when they only make use of their due prerogative. To this Mr. Locke answers, that the people however is to judge of all that; because no body can better judge whether his trustee or deputy acts well, and according to the trust reposed in him, than he who deputed him. He might make the like query, (says Mr. LeClerk, from whom this extract is taken) and ask, whether the people being oppressed by an authority which they set up, but for their own good, it is just, that those who are vested with this authority, and of which they are complaining, should themselves be judges of the complaints made against them. The greatest flatterers of kings, dare not say, that the people are obliged to suffer absolutely all

their humours, how irregular soever they be; and therefore must confess, that when no regard is had to their complaints, the very foundations of society are destroyed; the prince and people are in a state of war with each other, like two independent states, that are doing themselves justice, and acknowledge no person upon earth, who in a sovereign manner, can determine the disputes between them, &c.

If there is any thing in these quotations, which is applicable to the destruction of the tea, or any other branch of our subject, it is not my fault; I did not make it. Surely Grotius, Puffendorf, Barbeyrac, Locke, Sidney, and LeClerk, are writers, of sufficient weight to put in the scale against the mercenary scribblers in New York and Boston, who have the unexampled impudence and folly, to call these which are revolution principles in question, and to ground their arguments upon passive obedience as a corner stone. What an opinion must these writers have of the principles of their patrons, the lords Bute, Mansfield and North, when they hope to recommend themselves by reviving that stupid doctrine, which has been infamous so many years. Dr. Sachevaril himself tells us that his sermons were burnt by the hands of the common hangman, by the order of the king, lords and commons, in order to fix an eternal and indelible brand of infamy on that doctrine.

In the Gazette of January the 2d, Massachusettensis entertains you with an account of his own important self. This is a subject which he has very much at heart, but it is of no consequence to you or me, and therefore little need be said of it. If he had such a stand in the community, that he could have seen all the political manœuvres, it is plain he must have shut his eyes, or he never could have mistaken so

grossly, causes for effects, and effects for causes.

He undertakes to point out the principles and motives upon which the blockade act was made, which were according to him, the destruction of the East India Company's tea. He might have said more properly the ministerial tea; for such it was, and the company are no losers; they have received from the public treasury compensation for it.

Then we are amused with a long discourse about the nature of the British government, commerce, agriculture, arts, manufactures, regulations of trade, custom-house officers, which, as it has no relation to the subject, I shall pass over.

The case is shortly this. The East India Company, by their contract with government, in their charter and statute, are bound in consideration of their important profitable privileges to pay to the public treasury, a revenue, annually, of four hundred thousand pounds sterling, so long as they can hold up their dividends, at twelve per cent. and no longer.

The mistaken policy of the ministry, in obstinately persisting in their claim of right to tax America, and refusing to repeal the duty on tea, with those on glass, paper and paint, had induced all America, except a few merchants in Boston, most of whom were closely connected with the junto, to refuse to import tea from Great Britain; the consequence of which was a kind of stagnation in the affairs of the company, and an immense accumulation of tea in their stores, which they could not sell. This, among other causes, contributed to affect their credit, and their dividends were on the point of falling below twelve per cent. and consequently the government was upon the point of losing 400,000l. sterling a year

of revenue. The company solicited the ministry to take off the duty in America: but they adhering to their plan of taxing the colonies and establishing a precedent, framed an act to enable the company to send their tea directly to America. This was admired as a master-piece of policy. It was thought they would accomplish four great purposes at once: establish their precedent of taxing America; raise a large revenue there by the duties; save the credit of the company, and the 400,000l. to the government. The company however, were so little pleased with this, that there were great debates among the directors, whether they should risque it, which were finally determined by a majority of one only, and that one the chairman, being unwilling as it is said, to interfere, in the dispute between the minister and the colonies, and uncertain what the result would be: and this small majority was not obtained, as it is said, until a sufficient intimation was given that the company should not be losers.

When these designs were made known, it appeared, that American politicians were not to be deceived; that their sight was as quick and clear as the minister's; and that they were as steady to their purpose, as he was to his. This was thought by all the colonies to be the precise point of time, when it became absolutely necessary to make a stand. If the tea should be landed, it would be sold; if sold, the duties would amount to a large sum, which would be instantly applied to increase the friends and advocates for more duties, and to divide the people; and the company would get such a footing, that no opposition afterwards could ever be effectual. And as soon as the duties on tea should be established, they would be ranked among post-office fees, and other precedents, and used as arguments, both of the right

and expediency of laying on others, perhaps on all the necessaries, as well as conveniences and luxuries of life. The whole continent was united in the sentiment, that all opposition to parliamentary taxation must be given up forever, if this critical moment was neglected. Accordingly, New York and Philadelphia determined that the ships should be sent back; and Charleston, that the tea should be stored and locked up. This was attended with no danger in that city, because they are fully united in sentiment and affection, and have no *Junto* to perplex them. Boston was under greater difficulties. The consignees at New York and Philadelphia most readily resigned. The consignees at Boston, the children, cousins, and most intimate connections of governor Hutchinson, refused. I am very sorry that I cannot stir a single step in developing the causes of my country's miseries, without stumbling upon this gentleman. But so it is. From the near relation and most intimate connection of the consignees with him, there is great cause of jealousy, if not a violent presumption, that he was at the bottom of all this business, that he had planned it, in his confidential letters with Bernard, and both of them joined in suggesting and recommending it to the ministry. Without this supposition, it is difficult to account for the obstinacy with which the consignees refused to resign, and the governor to let the vessel go. However this might be, Boston is the only place upon the continent, perhaps in the world, which ever breeds a species of misanthropes, who will persist in their schemes for their private interest, with such obstinacy, in opposition to the public good; disoblige all their fellow citizens for a little pelf, and make themselves odious and infamous, when they might be respected and esteemed. It must be said, however,

in vindication of the town, that this breed is spawned chiefly by the Junto. The consignees would not resign; the custom house refused clearances; governor Hutchinson refused passes by the castle. The question then was, with many, whether the governor, officers, and consignees should be compelled to send the ships hence? An army and navy was at hand, and bloodshed was apprehended. At last, when the continent, as well as the town and province, were waiting the issue of this deliberation with the utmost anxiety, a number of persons, in the night, put them out of suspense, by an oblation to Neptune. I have heard some gentlemen say, "this was a very unjustifiable proceeding"—"that if they had gone at noon-day, and in their ordinary habits, and drowned it in the face of the world, it would have been a meritorious, a most glorious action: but to go in the night, and much more in disguise, they thought very inexcusable."

"The revenue was not the consideration before parliament," says Massachusettensis. Let who will believe him. But if it was not, the danger to America was the same. I take no notice of the idea of a monopoly. If it had been only a monopoly (though in this light it would have been a very great grievance) it would not have excited, nor in the opinion of any one justified the step that was taken. It was an attack upon a fundamental principle of the constitution, and upon that supposition was resisted, after multitudes of petitions to no purpose, and because there was no tribunal in the constitution, from whence redress could have been obtained.

There is one passage so pretty, that I cannot refuse myself the pleasure of transcribing it. "A smuggler and a whig are cousin Germans, the offspring of two

sisters, avarice and ambition. They had been playing into each other's hands a long time. The smuggler received protection from the whig, and he in his turn received support from the smuggler. The illicit trader now demanded protection from his kinsman, and it would have been unnatural in him to have refused it; and beside, an opportunity presented of strengthening his own interest."

The wit and the beauty of the style, in this place, seem to have quite enraptured the lively juvenile imagination of this writer.

The truth of the fact he never regards, any more than the justice of the sentiment. Some years ago, the smugglers might be pretty equally divided between the whigs and the tories. Since that time, they have almost all married into the tory families, for the sake of dispensations and indulgencies. If I were to let myself into secret history, I could tell very diverting stories of smuggling tories in New-York and Boston. Massachusettensis is quarrelling with some of his best friends. Let him learn more discretion.

We are then told that "the consignees offered to store the tea, under the care of the selectmen, or a committee of the town." This expedient might have answered, if none of the junto, nor any of their connections, had been in Boston. But is it a wonder, that the selectmen declined accepting such a deposit? They supposed they should be answerable, and nobody doubted that tories might be found who would not scruple to set fire to the store, in order to make them liable. Besides if the tea was landed, though only to be stored, the duty must be paid, which it was thought was giving up the point.

Another consideration, which had great weight, was,

the other colonies were grown jealous of Boston, and thought it already deficient in point of punctuality, against the dutied articles: and if the tea was once stored, artifices might be used, if not violence, to disperse it abroad. But if through the continual vigilance and activity of the committee and the people, through a whole winter, this should be prevented; yet one thing was certain, that the tories would write to the other colonies and to England, thousands of falsehoods concerning it, in order to induce the ministry to persevere, and to sow jealousies and create divisions among the colonies.

Our acute logician then undertakes to prove the destruction of the tea unjustifiable, even upon the principle of the whigs, that the duty was unconstitutional. The only argument he uses is this: that "unless we purchase the tea, we shall never pay the duty." This argument is so frivolous, and has been so often confuted and exposed, that if the party had any other, I think they would relinquish this. Where will it carry us? If a duty was laid upon our horses, we may walk;—if upon our butcher's meat, we may live upon the produce of the dairy;—and if that should be taxed, we may subsist as well as our fellow slaves in Ireland, upon spanish potatoes and cold water. If a thousand pounds was laid upon the birth of every child, if children are not begotten, none will be born;—if, upon every marriage, no duties will be paid, if all the young gentlemen and ladies agree to live batchelors and maidens.

In order to form a rational judgment of the quality of this transaction, and determine whether it was good or evil, we must go to the bottom of this great controversy. If parliament has a right to tax us and legislate for us, in all cases, the destruction of the tea

was unjustifiable; but if the people of America are right in their principle, that parliament has no such right, that the act of parliament is null and void, and it is lawful to oppose and resist it, the question then is, whether the destruction was necessary? for every principle of reason, justice and prudence, in such cases, demands that the least mischief shall be done; the least evil among a number shall always be preferred.

All men are convinced that it was impracticable to return it, and rendered so by Mr. Hutchinson and the Boston consignees. Whether to have stored it would have answered the end, or been a less mischief than drowning it, I shall leave to the judgment of the public. The other colonies, it seems, have no scruples about it, for we find that whenever tea arrives in any of them, whether from the East India Company, or any other quarter, it never fails to share the fate of that in Boston. All men will agree that such steps ought not to be taken, but in cases of absolute necessity, and that such necessity must be very clear. But most people in America now think, the destruction of the Boston tea was absolutely necessary, and therefore right and just. It is very true, they say, if the whole people had been united in sentiment, and equally stable in their resolution, not to buy or drink it, there might have been a reason for preserving it; but the people here were not so virtuous or so happy. The British ministry had plundered the people by illegal taxes, and applied the money in salaries and pensions, by which devices, they had insidiously attached to their party, no inconsiderable number of persons, some of whom were of family, fortune and influence, though many of them were of desperate fortunes, each of whom, however, had his circle of friends, connections and

dependants, who were determined to drink tea, both as evidence of their servility to administration, and their contempt and hatred of the people. These it was impossible to restrain without violence, perhaps bloodshed, certainly without hazarding more than the tea was worth. To this tribe of the *wicked*, they say, must be added another, perhaps more numerous, of the *weak*; who never could be brought to think of the consequences of their actions, but would gratify their appetites, if they could come at the means. What numbers are there in every community, who have no providence, or prudence in their private affairs, but will go on indulging the present appetite, prejudice, or passion, to the ruin of their estates and families, as well as their own health and characters! how much larger is the number of those who have no foresight for the public, or consideration of the freedom of posterity? Such an abstinence from the tea, as would have avoided the establishment of a precedent, dependent on the unanimity of the people, was a felicity that was unattainable. Must the wise, the virtuous and worthy part of the community, who constituted a very great majority, surrender their liberty, and involve their posterity in misery in complaisance to a detestable, though small party of knaves, and a despicable, though more numerous company of fools?

If Boston could have been treated like other places, like New York and Philadelphia, the tea might have gone home from thence, as it did from those cities. That inveterate, desperate junto, to whom we owe all our calamities, were determined to hurt us in this, as in all other cases, as much as they could. It is to be hoped they will one day repent and be forgiven, but it is very hard to forgive without repentance. When the news of this event arrived in England, it excited

such passions in the minister as nothing could restrain; his resentment was inkindled into revenge, rage, and madness; his veracity was piqued, as his master piece of policy, proved but a bubble. The bantling was the fruit of a favourite amour, and no wonder that his natural affection was touched, when he saw it dispatched before his eyes. His grief and ingenuity, if he had any, were affected at the thought that he had misled the East India Company so much nearer to destruction, and that he had rendered the breach between the kingdom and the colonies almost irreconcilable: his shame was excited because opposition had gained a triumph over him, and the three kingdoms were laughing at him for his obstinacy and his blunders: instead of relieving the company he had hastened its ruin: instead of establishing the absolute and unlimited sovereignty of parliament over the colonies, he had excited a more decisive denial of it, and resistance to it. An election drew nigh and he dreaded the resentment even of the corrupted electors.

In this state of mind bordering on despair, he determines to strike a bold stroke. Bernard was near and did not fail to embrace the opportunity, to push the old systems of the junto. By attacking all the colonies together, by the stamp-act, and the paint and glass act, they had been defeated. The charter constitution of the Massachusetts Bay, had contributed greatly to both these defeats. Their representatives were too numerous, and too frequently elected, to be corrupted: their people had been used to consider public affairs in their town meetings: their counsellors were not absolutely at the nod of a minister or governor, but were once a year equally dependant on the governor and the two houses. Their grand jurors, were elective by the

people, their petit jurors were returned merely by lot. Bernard and the junto rightly judged, that by this constitution the people had a check on every branch of power, and therefore as long as it lasted, parliamentary taxations, &c. could never be inforced.

Bernard, publishes his select letters, and his principles of polity; his son writes in defence of the Quebec bill; hireling garretteers are employed to scribble millions of lies against us, in pamphlets and newspapers; and setters employed in the coffee houses, to challenge or knock down all the advocates for the poor Massachusetts. It was now determined, instead of attacking the colonies together, though they had been all equally opposed to the plans of the ministry and the claims of parliament, and therefore upon ministerial principles equally guilty, to handle them one by one; and to begin with Boston and the Massachusetts. The destruction of the tea was a fine event for scribblers and speechifiers to declaim upon; and there was an hereditary hatred of New England, in the minds of many in England, on account of their non-conforming principles. It was likewise thought there was a similar jealousy and animosity in the other colonies against New England; that they would therefore certainly desert her; that she would be intimidated and submit; and then the minister, among his own friends, would acquire immortal honour, as the most able, skilful and undaunted statesman of the age.

The port bill, charter bill, murder bill, Quebec bill, making altogether such a frightful system, as would have terrified any people, who did not prefer liberty to life, were all concerted at once; but all this art and violence have not succeeded. This people, under great trials and dangers, have discovered great

abilities and virtues, and that nothing is so terrible to them as the loss of their liberties. If these arts and violences are persisted in, and still greater concerted and carried on against them, the world will see that their fortitude, patience and magnanimity will rise in proportion.

"Had Cromwell," says our what shall I call him? "had the guidance of the national ire, your proud capital had been levelled with the dust." Is it any breach of charity to suppose that such an event as this, would have been a gratification to this writer? can we otherwise account for his indulging himself in a thought so diabolical? will he set up Cromwell as a model for his deified lords, Bute, Mansfield and North? If he should, there is nothing in the whole history of him so cruel as this. All his conduct in Ireland, as exceptionable as any part of his whole life, affords nothing that can give the least probability to the idea of this writer. The rebellion in Ireland, was most obstinate, and of many years duration; 100,000 Protestants had been murdered in a day, in cold blood, by Papists, and therefore Cromwell might plead some excuse, that cruel severities were necessary, in order to restore any peace to that kingdom. But all this will not justify him; for as has been observed by an historian, upon his conduct in this instance, "men are not to divest themselves of humanity, and turn themselves into devils, because policy may suggest that they will succeed better as devils than as men!" But is there any parity or similitude between a rebellion of a dozen years standing, in which many battles had been fought, many thousands fallen in war, and 100,000 massacred in a day; and the drowning three cargoes of tea? To what strains of malevolence, to what flights of diabolical fury, is not tory rage

capable of transporting men!

"The whigs saw their ruin connected with a compliance with the terms of opening the port." They saw the ruin of their country connected with such a compliance, and their own involved in it. But they might have easily voted a compliance, for they were undoubtedly a vast majority, and have enjoyed the esteem and affection of their fellow slaves to their last hours. Several of them could have paid for the tea, and never have felt the loss. They knew they must suffer, vastly more, than the tea was worth; but they thought they acted for America and posterity; and that they ought not to take such a step without the advice of the colonies. They have declared our cause their own—that they never will submit to a precedent in any part of the united colonies, by which parliament may take away wharves and other lawful estates, or demolish charters; for if they do they have a moral certainty that in the course of a few years, every right of Americans will be taken away, and governors and councils, holding at the will of a minister, will be the only legislatives in the colonies.

A pompous account of the addressers of Mr. Hutchinson, then follows. They consisted of his relations, his fellow labourers in the tory vineyard, and persons whom he had raised in the course of four administrations, Shirley's, Pownal's, Bernard's, and his own, to places in the province. Considering the industry that was used, and the vast number of persons in the province, who had received commissions under government upon his recommendation, the small number of subscribers that was obtained, is among a thousand demonstrations of the unanimity of this people. If it

had been thought worth while to have procured a remonstrance against him, fifty thousand subscribers might have been easily found. Several gentlemen of property were among these addressers, and some of fair character; but their acquaintance and friendships lay among the junto and their subalterns entirely. Besides, did these addressers approve the policy or justice of any one of the bills, which were passed the last session of the late parliament? Did they acknowledge the unlimited authority of parliament? The Middlesex magistrates remonstrated against taxation: but they were flattered with hopes, that Mr. Hutchinson would get the port-bill, &c. repealed: that is, that he would have undone all, which every one, but themselves, knew he has been doing these fifteen years.

"But these patriotic endeavours, were defeated." By what? "By an invention of the fertile brain of one of our party agents, called a committee of correspondence." "*This is the foulest, subtlest and most venemous serpent, that ever issued from the eggs of sedition.*"

I should rather call it, the *Ichneumon*, a very industrious, active and useful animal, which was worshipped in Egypt as a divinity, because it defended their country from the ravages of the crocodiles. It was the whole occupation of this little creature to destroy those wily and ravenous monsters. It crushed their eggs, wherever they laid them, and with a wonderful address and courage, would leap into their mouths, penetrate their entrails, and never leave until it destroyed them.

If the honour of this invention is due to the gentleman, who is generally understood by the

"party agent" or Massachusettensis, it belongs to one, to whom America has erected a statue in her heart, for his integrity, fortitude and perseverance in her cause. That the invention itself is very useful and important, is sufficiently clear, from the unlimited wrath of the tories against it, and from the gall which this writer discharges upon it. Almost all mankind have lost their liberties through ignorance, inattention and disunion. These committees are admirably calculated to diffuse knowledge, to communicate intelligence, and promote unanimity. If the high whigs are generally of such committees, it is because the freeholders, who choose them, are such, and therefore prefer their peers. The tories, high or low, if they can make interest enough among the people, may get themselves chosen, and promote the great cause of parliamentary revenues, and the other sublime doctrines and mysteries of toryism. That these committees think themselves "amenable to none," is false; for there is not a man upon any one of them, who does not acknowledge himself to hold his place, at the pleasure of his constituents, and to be accountable to them, whenever they demand it. If the committee of the town of Boston was appointed, for a special purpose at first, their commission has been renewed from time to time; they have been frequently thanked by the town for their vigilance, activity and disinterested labours in the public service. Their doings have been laid before the town and approved of by it. The malice of the tories has several times swelled open their bosoms, and broke out into the most intemperate and illiberal invectives against it; but all in vain. It has only served to shew the impotence of the tories, and increase the importance of the committee.

These committees cannot be too religiously careful of

the exact truth of the intelligence they receive or convey; nor too anxious for the rectitude and purity of the measures they propose or adopt; they should be very sure that they do no injury to any man's person, property or character; and they are generally persons of such worth, that I have no doubt of their attention to these rules; and therefore that the reproaches of this writer are mere slanders.

If we recollect how many states have lost their liberties, merely from want of communication with each other, and union among themselves, we shall think that these committees may be intended by Providence to accomplish great events. What the eloquence and talents of negociation of Demosthenes himself could not effect, among the states of Greece, might have been effected by so simple a device. Castile, Arragon, Valencia, Majorca, &c. all complained of oppression under Charles the fifth, flew out into transports of rage, and took arms against him. But they never consulted or communicated with each other. They resisted separately, and were separately subdued. Had Don Juan Padilla, or his wife, been possessed of the genius to invent a committee of correspondence, perhaps the liberties of the Spanish nation might have remained to this hour, without any necessity to have had recourse to arms. Hear the opinion of Dr. Robertson. "While the spirit of disaffection was so general among the Spaniards, and so many causes concurred in precipitating them into such violent measures, in order to obtain redress of their grievances, it may appear strange that the malecontents in the different kingdoms should have carried on their operations without any mutual concert or even any intercourse with each other. By uniting their councils and arms, they might have

acted both with greater force, and with more effect. The appearance of a national confederacy would have rendered it no less respectable among the people, than formidable to the crown; and the emperor, unable to resist such a combination, must have complied with any terms, which the members of it thought fit to prescribe."

That it is owing to those committees that so many persons have been found to recant and resign, and so many others to fly to the army, is a mistake; for the same things would have taken place, if such a committee had never been in being, and such persons would probably have met with much rougher usage. This writer asks, "have not these persons as good a right to think and act for themselves as the whigs?" I answer yes. But if any man, whig or tory, shall take it into his head to think for himself, that he has a right to take my property, without my consent; however tender I may be of the right of private judgment and the freedom of thought, this is a point in which I shall be very likely to differ from him, and to think for myself, that I have a right to resist him. If any man should think, ever so conscientiously that the Roman Catholic religion is better than the Protestant, or that the French government is preferable to the British constitution in its purity; Protestants and Britons, will not be so tender of that man's conscience as to suffer him to introduce his favourite religion and government. So the well bred gentlemen, who are so polite as to think, that the charter constitution of this province ought to be abolished, and another introduced, wholly at the will of a minister or the crown; or that our ecclesiastical constitution is bad, and high church ought to come in, few people will be so tender of these consciences or complaisant to

such polite taste, as to suffer the one or the other to be established. There are certain prejudices among the people, so strong, as to be irresistible. Reasoning is vain, and opposition idle. For example, there are certain popular maxims and precepts called the ten commandments. Suppose a number of fine gentlemen, superior to the prejudices of education, should discover that these were made for the common people, and are too illiberal for gentlemen of refined taste to observe; and accordingly should engage in secret confidential correspondences to procure an act of parliament, to abolish the whole decalogue, or to exempt them from all obligation to observe it. If they should succeed, and their letters be detected, such is the force of prejudice, and deep habits among the lower sort of people, that it is much to be questioned, whether those refined geniuses would be allowed to enjoy themselves in the latitude of their sentiments. I once knew a man, who had studied Jacob Beckman and other mystics until he conscientiously thought the millenium commenced, and all human authority at an end; that the saints only had a right to property, and to take from sinners any thing they wanted. In this persuasion, he very honestly stole a horse. Mankind pitied the poor man's infirmity, but thought it however their duty to confine him that he might steal no more.

The freedom of thinking was never yet extended in any country so far, as the utter subversion of all religion and morality; nor as the abolition of the laws and constitution of the country.

But "are not these persons as closely connected with the interest of their country as the whigs?" I answer, they are not: they have found an interest in

opposition to that of their country, and are making themselves rich and their families illustrious, by depressing and destroying their country. But "do not their former lives and conversations appear to have been regulated by principles, as much as those of the whigs?" A few of them, it must be acknowledged, until seduced by the bewitching charms of wealth and power, appeared to be men of principle. But taking the whigs and tories on an average, the balance of principle, as well as genius, learning, wit and wealth, is infinitely in favour of the former. As to some of these fugitives, they are known to be men of no principles at all, in religion, morals or government.

But the "policy" is questioned, and you are asked if you expect to make converts by it? As to the policy or impolicy of it, I have nothing to say; but we do not expect to make converts of most of those persons by any means whatever, as long as they have any hopes that the ministry will place and pension them. The instant these hopes are extinguished, we all know they will be converted of course. Converts from places and pensions are only to be made by places and pensions; all other reasoning is idle; these are the *penultima ratio* of the tories, as field pieces are the *ultima*.

That we are not "unanimous is certain." But there are nineteen on one side to one on the other, through the province; and ninety-nine, out of an hundred of the remaining twentieth part, can be fairly shewn to have some sinister private view, to induce them to profess his opinion.

Then we are threatened high, that "this is a changeable world, and times rolling wheel may ere

long bring them uppermost, and in that case we should not wish to have them fraught with resentment."

To all this we answer, without ceremony, that they always have been uppermost, in every respect, excepting only the esteem and affection of the people; that they always have been fraught with resentment (even their cunning and policy have not restrained them) and we know they always will be; that they have indulged their resentment and malice, in every instance in which they had power to do it; and we know that their revenge will never have other limits, than their power.

Then this consistent writer, begins to flatter the people; "he appeals to their good sense, he knows they have it;" the same people, whom he has so many times represented as mad and foolish.

"I know you are loyal and friends to good order." This is the same people that, in the whole course of his writings, he has represented as continuing for ten years together in a continual state of disorder, demolishing the chair, board, supreme court, and encouraging all sorts of riots, insurrections, treason and rebellion. Such are the shifts to which a man is driven, when he aims at carrying a point, not at discovering truth.

The people are then told that "they have been insidiously taught to believe that Great Britain is rapacious, cruel and vindictive, and envies us the inheritance purchased by the sweat and blood of our ancestors." The people do not believe this—they will not believe it. On the contrary, they believe, if it was not for scandals constantly transmitted from this province by the tories, the nation would redress our

grievances. Nay as little as they reverence the ministry, they even believe that the lords North, Mansfield and Bute would relieve them, and would have done it long ago, if they had known the truth. The moment this is done "long live our gracious king and happiness to Britain," will resound from one end of the province to the other; but it requires a very little foresight to determine, that no other plan of governing the province and the colonies will ever restore a harmony between the two countries, but desisting from the plan of taxing them and interfering with their internal concerns, and returning to that system of colony administration, which nature dictated, and experience for one hundred and fifty years found useful.

NOVANGLUS.

ADDRESSED

To the Inhabitants of the Colony of Massachusetts Bay,

March 6, 1775.

MY FRIENDS,

OUR rhetorical magician, in his paper of January the

9th continues to *wheedle*. "You want nothing but to know the true state of facts, to rectify whatever is amiss." He becomes an advocate for the poor of Boston! Is for making great allowance for the whigs. "The whigs are too valuable a part of the community to lose. He would not draw down the vengeance of Great Britain. He shall become an advocate for the leading whigs." &c. It is in vain for us to enquire after the *sincerity* or *consistency* of all this. It is agreeable to the precept of Horace. *Irritat, mulcet, falsis terroribus implet, ut magus.* And that is all he desires.

After a long discourse, which has nothing in it, but what has been answered already, he comes to a great subject indeed, the British constitution; and undertakes to prove that "the authority of parliament extends to the colonies."

Why will not this writer state the question fairly? The whigs allow that from the necessity of a case not provided for by common law, and to supply a defect in the British dominions, which there undoubtedly is, if they are to be governed only by that law, America has all along consented, still consents, and ever will consent, that parliament being the most powerful legislature in the dominions, should regulate the trade of the dominions. This is founding the authority of parliament to regulate our trade, upon *compact* and *consent* of the colonies, not upon any principle of common or statute law, not upon any original principle of the English constitution, not upon the principle that parliament is the supreme and sovereign legislature over them in all cases whatsoever.

The question is not therefore, whether the authority

of parliament extends to the colonies in any case; for it is admitted by the whigs that it does in that of commerce: but whether it extends in all cases.

We are then detained with a long account of the three simple forms of government; and are told that "the British constitution consisting of king, lords and commons, is formed upon the principles of monarchy, aristocracy and democracy, in due proportion; that it includes the principal excellencies, and excludes the principal defects of the other kinds of government—the most perfect system that the wisdom of ages has produced, and Englishmen glory in being subject to and protected by it."

Then we are told, "that the colonies are a part of the British empire." But what are we to understand by this? Some of the colonies, most of them indeed, were settled before the kingdom of Great Britain was brought into existence. The union of England and Scotland, was made and established by act of parliament in the reign of queen Ann; and it was this union and statute which erected the kingdom of Great Britain. The colonies were settled long before, in the reigns of the Jameses and Charleses. What authority over them had Scotland? Scotland, England, and the colonies were all under one king before that; the two crowns of England and Scotland, united on the head of James the first, and continued united on that of Charles the first, when our first charter was granted. Our charter being granted by him, who was king of both nations, to our ancestors, most of whom were *post nati*, born after the union of the two crowns, and consequently, as was adjudged in Calvin's case, free, natural subjects of Scotland, as well as England; had not the king as good a right to have governed the colonies by his Scottish, as by his

English parliament, and to have granted our charters under the seal of Scotland, as well as that of England?

But to wave this. If the English parliament were to govern us, where did they get the right, without our consent to take the Scottish parliament into a participation of the government over us? When this was done, was the American share of the democracy of the constitution consulted? If not, were not the Americans deprived of the benefit of the democratical part of the constitution? And is not the democracy as essential to the English constitution, as the monarchy or aristocracy? Should we have been more effectually deprived of the benefit of the British or English constitution, if one or both houses of parliament, or if our house and council had made this union with the two houses of parliament in Scotland, without the king?

If a new constitution was to be formed for the whole British dominions, and a supreme legislature coextensive with it, upon the general principles of the English constitution, an equal mixture of monarchy, aristocracy and democracy, let us see what would be necessary. England had six millions of people we will say: America had three. England has five hundred members in the house of commons we will say: America must have two hundred and fifty. Is it possible she should maintain them there, or could they at such a distance know the state, the sense or exigencies of their constituents? Ireland, too, must be incorporated, and send another hundred or two of members. The territory in the East Indies and West India Islands must send members. And after all this, every navigation act, every act of trade must be repealed. America and the East and West

Indies and Africa too must have equal liberty to trade with all the world, that the favoured inhabitants of Great Britain have now. Will the ministry thank Massachusettensis for becoming an advocate for such an union and incorporation of all the dominions of the king of Great Britain? Yet without such an union, a legislature which shall be sovereign and supreme in all cases whatsoever, and coextensive with the empire, can never be established upon the general principles of the English constitution, which Massachusettensis lays down, viz. an equal mixture of monarchy, aristocracy and democracy. Nay further, in order to comply with this principle, this new government, this mighty Colossus, which is to bestride the narrow world, must have an house of lords consisting of Irish, East and West Indian, African, American, as well as English and Scottish noblemen; for the nobility ought to be scattered about all the dominions, as well as the representatives of the commons. If in twenty years more America should have six millions of inhabitants, as there is a boundless territory to fill up, she must have five hundred representatives. Upon these principles, if in forty years she should have twelve millions, a thousand; and if the inhabitants of the three kingdoms remain as they are, being already full of inhabitants, what will become of your supreme legislative? It will be translated, crown and all, to America. This is a sublime system for America. It will flatter those ideas of independency, which the tories impute to them, if they have any such, more than any other plan of independency that I have ever heard projected.

"The best writers upon the law of nations, tell us, that when a nation takes possession of a distant country and settles there, that country, though

separated from the principal establishment, or mother country, naturally becomes a part of the state, equal with its ancient possessions." We are not told who these "best writers" are: I think we ought to be introduced to them. But their meaning may be no more, than that it is best they should be incorporated with the ancient establishment by contract, or by some new law and institution, by which the new country shall have equal right, powers and privileges, as well as equal protection; and be under equal obligations of obedience with the old. Has there been any such contract between Britain and the colonies? Is America incorporated into the realm? Is it a part of the realm? Is it a part of the kingdom? Has it any share in the legislative of the realm? The constitution requires that every foot of land should be represented in the third estate, the democratical branch of the constitution. How many millions of acres in America, how many thousands of wealthy landholders, have no representatives there.

But let these "best writers" say what they will, there is nothing in the law of nations, which is only the law of right reason, applied to the conduct of nations, that requires that emigrants from a state that should continue, or be made a part of the state.

The practice of nations has been different. The Greeks planted colonies, and neither demanded nor pretended any authority over them, but they became distinct independent commonwealths.

The Romans continued their colonies under the jurisdiction of the mother commonwealth; but, nevertheless, she allowed them the privileges of cities. Indeed that sagacious city seems to have been aware of difficulties, similar to those, under which

Great Britain is now labouring; she seems to have been sensible of the impossibility of keeping colonies, planted at great distances, under the absolute controul of her *senatus consulta*. Harrington tells us, Oceana p. 43. that "the commonwealth of Rome, by planting colonies of its citizens within the bounds of Italy, took the best way of propagating itself, and naturalizing the country; whereas if it had planted such colonies without the bounds of Italy, it would have alienated the citizens, and given a root to liberty abroad, that might have sprung up foreign, or savage and hostile to her; *wherefore it never made any such dispersion of itself and its strength*, till it was under the yoke of the emperors, who disburdening themselves of the people, as having less apprehension of what they could do abroad than at home, took a contrary course." But these Italian cities, although established by decrees of the senate of Rome, to which the colonist was always party, either as a Roman citizen about to emigrate, or as a conquered enemy treating upon terms; were always allowed all the rights of Roman citizens, and were governed by senates of their own. It was the policy of Rome to conciliate her colonies, by allowing them equal liberties with her citizens. Witness the example of the Privernates. This people had been conquered, and complaining of oppressions, revolted. At last they sent ambassadors to Rome to treat of peace. The senate was divided in opinion. Some were for violent, others for lenient measures. In the course of the debate, a senator, whose opinion was for *bringing them to his feet*, proudly asked one of the ambassadors, what punishment he thought his countrymen deserved? *Eam inquit, quam merentur, qui se libertate dignos censent.* That punishment which those deserve, who think themselves worthy of

liberty. Another senator, seeing that the *ministerial members* were exasperated with the honest answer, in order to divert their anger, asks another question. What if we remit all punishment? What kind of a peace may we hope for with you? *Si bonam dederitis, inquit et fidam, et perpetuam; si malam, haud diuturnam.* If you give us a just peace, it will be faithfully observed, and perpetually: but if a bad one, it will not last long. The *ministerial* senators were all on fire at this answer, cried out sedition and rebellion; but the wiser majority decreed, "*viri et liberi, vocem auditam, an credi posse, ullum populum, aut hominem denique, in ea conditione, cujus cum paeniteat, diutius, quam necesse sit, mansurum? Ibi pacem esse fidam, ubi voluntarii pacati sint; neque eo loco, ubi servitutem esse velint, fidem sperandam esse.*" "That they had heard the voice of a man and a son of liberty; that it was not natural or credible that any people, or any man, would continue longer than necessity should compel him, in a condition that grieved and displeased him. A faithful peace was to be expected from men whose affections were conciliated, nor was any kind of fidelity to be expected from slaves." The consul exclaimed, "*Eos demum qui nihil, praeterquam de libertate, existent, dignos esse qui Romani fiant.*" That they who regarded nothing so much as their liberty, deserved to be Romans. "*Itaque et in senatu causam obtinuere, et ex auctoritate patrum, latum ad populum est, ut Privernatibus civitas daretur.*" Therefore the Privernates obtained their cause in the senate, and it was by the authority of those fathers, recommended to the people, that the privileges of a city should be granted them. The practice of free nations only can be adduced, as precedents of what the law of nature has been thought to dictate upon this subject of

colonies. Their practice is different. The senate and people of Rome did not interfere commonly by making laws for their colonies, but left them to be ruled by their governors and senates. Can Massachusettensis produce from the whole history of Rome, or from the Digest, one example of a *Senatus consultum* or a *Plebiscitum* laying taxes on the colony?

Having mentioned the wisdom of the Romans, for not planting colonies out of Italy, and their reasons for it, I cannot help recollecting an observation of Harrington, Oceana, p. 44. "For the colonies in the Indies," says he, "they are yet babes, that cannot live without sucking the breasts of their mother cities; but such as I mistake, if, when they come of age, they do not wean themselves, which causes me to wonder at princes that delight to be exhausted that way." This was written 120 years ago; the colonies are now nearer manhood than ever Harrington foresaw they would arrive, in such a period of time. Is it not astonishing then, that any British minister should ever have considered this subject so little, as to believe it possible for him to new model all our governments, to tax us by an authority that never taxed us before, and subdue us to an implicit obedience to a legislature, that millions of us scarcely ever thought any thing about?

I have said, that the practice of free governments alone can be quoted with propriety, to shew the sense of nations. But the sense and practice of nations is not enough. Their practice must be reasonable, just and right, or it will not govern Americans.

Absolute monarchies, whatever their practice may be, are nothing to us. For as Harrington observes,

"Absolute monarchy, as that of the Turks, neither plants its people at home nor abroad, otherwise than as tenants for life or at will; wherefore its national and provincial government is all one."

I deny, therefore, that the practice of free nations, or the opinions of the best writers upon the law of nations, will warrant the position of Massachusettensis, that when a nation takes possession of a distant territory, that becomes a part of the state equally with its ancient possessions. The practice of free nations, and the opinions of the best writers, are in general on the contrary.

I agree, that "two supreme and independent authorities cannot exist in the same state," any more than two supreme beings in one universe. And therefore I contend, that our provincial legislatures are the only supreme authorities in our colonies. Parliament, notwithstanding this, may be allowed an authority supreme and sovereign over the ocean, which may be limited by the banks of the ocean, or the bounds of our charters; our charters give us no authority over the high seas. Parliament has our consent to assume a jurisdiction over them. And here is a line fairly drawn between the rights of Britain and the rights of the colonies, viz. the banks of the ocean, or low water mark; the line of division between common law and civil, or maritime law. If this is not sufficient—if parliament are at a loss for any principle of natural, civil, maritime, moral or common law, on which to ground any authority over the high seas, the Atlantic especially, let the Colonies be treated like reasonable creatures, and they will discover great ingenuity and modesty. The acts of trade and navigation might be confirmed by provincial laws, and carried into execution by our

own courts and juries, and in this case illicit trade would be cut up by the roots forever. I knew the smuggling tories in New-York and Boston would cry out against this, because it would not only destroy their profitable game of smuggling, but their whole place and pension system. But the whigs, that is a vast majority of the whole continent, would not regard the smuggling tories. In one word, if public principles and motives and arguments, were alone to determine this dispute between the two countries, it might be settled forever, in a few hours; but the everlasting clamours of prejudice, passion and private interest, drown every consideration of that sort, and are precipitating us into a civil war.

"If then we are a part of the British empire, we must be subject to the supreme power of the state, which is vested in the estates in parliament."

Here again we are to be conjured out of our senses by the magic in the words "British empire," and "supreme power of the state." But however it may sound, I say we are not a part of the British empire; because the British government is not an empire. The governments of France, Spain, &c. are not empires, but monarchies, supposed to be governed by fixed fundamental laws, though not really. The British government is still less intitled to the style of an empire: it is a limited monarchy. If Aristotle, Livy, and Harrington knew what a republic was, the British constitution is much more like a republic, than an empire. They define a republic to be *a government of laws, and not of men.* If this definition is just, the British constitution is nothing more nor less than a republic, in which the king is first magistrate. This office being hereditary and being possessed of such ample and splendid prerogatives, is no

objection to the government's being a republic, as long as it is bound by fixed laws, which the people have a voice in making, and a right to defend. An empire is a despotism, and an emperor a despot, bound by no law or imitation, but his own will: it is a stretch of tyranny beyond absolute monarchy. For although the will of an absolute monarch is law, yet his edicts must be registered by parliaments. Even this formality is not necessary in an empire. There the maxim is *quod principi placuit, legis habet vigorem*, even without having that will and pleasure recorded. There are but three empires now in Europe, the German, or holy Roman, the Russian and the Ottoman.

There is another sense indeed, in which the word empire is used, in which it may be applied to the government of Geneva, or any other republic, as well as to monarchy, or despotism. In this sense it is synonimous with government, rule, or dominion. In this sense, we are within the dominion, rule, or government of the king of Great Britain.

The question should be, whether we are a part of the kingdom of Great Britain: this is the only language, known in English laws. We are not then a part of the British kingdom, realm or state; and therefore the supreme power of the kingdom, realm or state, is not upon these principles, the supreme power of us. That "supreme power over America is vested in the estates in parliament," is an affront to us; for there is not an acre of American land represented there—there are no American estates in parliament.

To say that we "must be" subject, seems, to betray a consciousness, that we are not by any law or upon any principles, but those of mere power; and an

opinion that we ought to be or that it is necessary that we should be. But if this should be, admitted, for argument's sake only, what is the consequence? The consequences that may fairly be drawn are these:—That Britain has been imprudent enough to let colonies be planted, until they are become numerous and important, without ever having wisdom enough to concert a plan for their government, consistent with her own welfare: that now it is necessary to make them submit to the authority of parliament: and because there is no principle of law or justice, or reason, by which she can effect it; therefore she will resort to war and conquest—to the maxim *delenda est Carthago*. These are the consequences, according to this writer's idea. We think the consequences are, that she has after 150 years, discovered a defect in her government, which ought to be supplied by some just and reasonable means; that is, by the consent of the colonies; for metaphysicians and politicians may dispute forever, but they will never find any other moral principle or foundation of rule or obedience, than the consent of governors and governed. She has found out that the great machine will not go any longer without a new wheel. She will make this herself. We think she is making it of such materials and workmanship as will tear the whole machine to pieces. We are willing if she can convince us of the necessity of such a wheel, to assist with artists and materials, in making it, so that it may answer the end. But she says, we shall have no share in it; and if we will not let her patch it up as she pleases, her Massachusettensis and other advocates tell us, she will tear it to pieces herself, by cutting our throats. To this kind of reasoning we can only answer, that we will not stand still to be butchered. We will defend our lives as long as providence shall enable

us.

"It is beyond doubt, that it was the sense both of the *parent country* and *our ancestors*, that they were to remain subject to parliament."

This has been often asserted, and as often contradicted, and fully confuted. The confutation may not, however, have come to every eye which has read this newspaper.

The public acts of kings and ministers of state, in that age, when our ancestors emigrated, which were not complained of, remonstrated and protested against by the commons, are looked upon as sufficient proof of the "sense" of the parent country.

The charter to the treasurer and company of Virginia, 23d March, 1609, grants ample power of government, legislative, executive and judicial, and then contains an express covenant "to and with the said treasurer and company, their successors, factors and assigns, that they, and every of them, shall be free from all taxes and impositions forever, upon any goods or merchandizes, at any time or times hereafter, either upon importation thither, or exportation from thence, into our realm of England, or into any other of our realms or dominions."

I agree with this writer, that the authority of a supreme legislature, includes the right of taxation. Is not this quotation then an irresistible proof, that "it was not the sense of king James or his ministers, or of the ancestors of the Virginians, that they were to remain subject to parliament as a supreme legislature?"

After this, James issued a proclamation, recalling the

patent, but this was never regarded. Then Charles issued another proclamation, which produced a remonstrance from Virginia, which was answered by a letter from the lords of the privy council, 22d July, 1634, containing the royal assurance that "all their estates, trade, freedom, and privileges should be enjoyed by them, in as extensive a manner, as they enjoyed them before those proclamations."

Here is another evidence of the sense of the king and his ministers.

Afterwards parliament sent a squadron of ships to Virginia; the colony rose in open resistance until the parliamentary commissioners granted them conditions, that they should enjoy the privileges of Englishmen; that their assembly should transact the affairs of the colonies; that they should have a free trade to all places and nations, as the people of England; and fourthly, that "Virginia shall be free from all *taxes*, customs, and impositions whatever, and none shall be imposed on them without consent of their general assembly; and that neither forts nor castles be erected, or garrisons maintained, without their consent."

One would think this was evidence enough of the sense both of the parent country and our ancestors.

After the acts of navigation were passed, Virginia sent agents to England, and a remonstrance against those acts. Charles, in answer, sent a declaration under the privy seal, 19th April, 1676, affirming, "that taxes ought not to be laid upon the inhabitants and proprietors of the colony, but by the common consent of the general assembly; except such impositions as the parliament should lay on the

commodities imported into England from the colony." And he ordered a charter, under the great seal, to secure this right to the Virginians.

What becomes of the "sense" of the parent country and our ancestors? for the ancestors of the Virginians are our ancestors, when we speak of ourselves as Americans. From Virginia let us pass to Maryland. Charles 1st, in 1633, gave a charter to the baron of Baltimore, containing ample powers of government, and this express covenant: "to and with the said lord Baltimore, his heirs and assigns, that we, our heirs and successors, shall at no time hereafter, set or make, or cause to be set any imposition, custom, or other taxation, rate, or contribution whatsoever, in and upon the dwellings and inhabitants of the aforesaid province, for their lands, tenements, goods or chattels, within the said province; or to be laden or unladen, within the ports or harbours of the said province."

What then was the "sense" of the parent country, and the ancestors of Maryland? But if by "our ancestors," he confines his idea to New England or this province, let us consider. The first planters of Plymouth were our ancestors in the strictest sense. They had no charter or patent for the land they took possession of, and derived no authority from the English parliament or crown, to set up their government. They purchased land of the Indians, and set up a government of their own, on the simple principle of nature, and afterwards purchased a patent for the land of the council at Plymouth, but never purchased any charter for government of the crown, or the king, and continued to exercise all the powers of government, legislative, executive and judicial, upon the plain ground of an original contract among

independent individuals for 68 years, i.e. until their incorporation with Massachusetts by our present charter. The same may be said of the colonies which emigrated to Say-Brook, New-Haven, and other parts of Connecticut. They seem to have had no idea of dependence on parliament, any more than on the conclave. The secretary of Connecticut has now in his possession, an original letter from Charles 2d. to that colony, in which he considers them rather as friendly allies, than as subjects to his English parliament, and even requests them to pass a law in their assembly relative to piracy.

The sentiments of your ancestors in the Massachusetts, may be learned from almost every ancient paper and record. It would be endless to recite all the passages, in which it appears that they thought themselves exempt from the authority of parliament, not only in the point of taxation, but in all cases whatsoever. Let me mention one. Randolph, one of the predecessors of Massachusettensis, in a representation to Charles 2d. dated 20th September, 1676, says, "I went to visit the governor at his house, and among other discourse, I told him I took notice of several ships that were arrived at Boston, some since my being there, from Spain, France, Streights, Canaries, and other parts of Europe, contrary to your majesty's laws for encouraging navigation and regulating the trade of the plantations." He freely declared to me, that the law made by your majesty and your parliament, obligeth them in nothing but what consists with the interest of that colony, that the legislative power is and abides in them solely to act and make laws by virtue of a charter from your majesty's royal father. Here is a positive assertion of an exemption from the authority of parliament, even in the case of the regulation of trade.

Afterwards in 1677, the general court passed a law, which shews the sense of our ancestors in a very strong light. It is in these words. "This court being informed, by letters received this day from our messengers, of his majesty's expectation that the acts of Trade and Navigation be exactly and punctually observed by this his majesty's colony, his pleasure therein not having before now, signified unto us, either by express from his majesty, or any of his ministers of state; It is therefore hereby ordered, and by the authority of this court enacted, that henceforth, all masters of ships, ketches, or other vessels, of greater or lesser burthen, arriving in, or sailing from any of the ports in this jurisdiction, do, without coven, or fraud, yield faithful and constant obedience unto, and observation of all the said acts, of navigation and trade, on penalty of suffering such forfeitures, loss and damage as in the said acts are particularly expressed. And the governor and council, and all officers commissionated and authorised by them, are hereby ordered and required to see to the strict observation of the said acts." As soon as they had passed this law, they wrote a letter to their agent, in which they acknowledge they had not conformed to the acts of trade; and they say, they "apprehended them to be an invasion of the rights, liberties and properties of the subjects of his majesty in the colony, they not being represented in parliament, and according to the usual sayings of the learned in the law, *the laws of England were bounded within the four seas, and did not reach America*. However, as his majesty had signified his pleasure, that these acts should be observed in the Massachusetts, they had made provision by a law of the colony, that they should be strictly attended to, from time to time, although it greatly discouraged

trade, and was a great damage to his majesty's plantation."

Thus it appears, that the ancient Massachusettensians and Virginians, had precisely the same sense of the authority of parliament viz. that it had none at all: and the same sense of the necessity, that by the voluntary act of the colonies, their free cheerful consent, it should be allowed the power of regulating trade: and this is precisely the idea of the late congress at Philadelphia, expressed in the fourth proposition in their Bill of Rights.

But this was the sense of the parent country too, at that time; for king Charles II. in a letter to the Massachusetts, after this law, had been laid before him, has these words; "We are informed that you have lately made *some good provision* for observing the acts of trade and navigation, which is well pleasing unto us." Had he, or his ministers an idea that parliament was the sovereign legislative over the colony? If he had, would he not have censured this law, as an insult to that legislature?

I sincerely hope, we shall see no more such round affirmations, that it was the sense of the parent country and our ancestors, that they were to remain subject to parliament.

So far from thinking themselves subject to parliament, that during the Interregnum, it was their desire and design to have been a free commonwealth, an independent republic; and after the restoration, it was with the utmost reluctance, that in the course of 16 or 17 years, they were brought to take the oaths of allegiance: and for some time after this, they insisted upon taking an oath of fidelity to the country, before that of allegiance to

the king.

That "it is evident from the charter itself," that they were to remain subject to parliament, is very unaccountable, when there is not one word in either charter concerning parliament.

That the authority of parliament has been exercised almost ever since the settlement of the country, is a mistake; for there is no instance, until the first Navigation Act, which was in 1660, more than 40 years after the first settlement. This act was never executed or regarded, until 17 years afterwards, and then it was not executed as an act of parliament, but as a law of the colony, to which the king agreed.

"This has been expressly acknowledged by our provincial legislatures." There is too much truth in this. It has been twice acknowledged by our house of Representatives, that parliament was the supreme legislative; but this was directly repugnant to a multitude of other votes by which it was denied. This was in conformity to the distinction between taxation and legislation, which has since been found to be a distinction without a difference.

When a great question is first started, there are very few, even of the greatest minds, which suddenly and intuitively comprehend it, in all its consequences.

It is both "our interest and our duty to continue subject to the authority of parliament," as far as the regulation of our trade, if it will be content with that, but no longer.

"If the colonies are not subject to the authority of parliament, Great Britain and the colonies must be distinct states, as completely so as England and

Scotland were before the union, or as Great Britain and Hanover are now." There is no need of being startled at this consequence. It is very harmless. There is no absurdity at all in it. Distinct states may be united under one king. And those states may be further cemented and united together, by a treaty of commerce. This is the case. We have, by our own express consent, contracted to observe the navigation act, and by our implied consent, by long usage and uninterrupted acquiescence, have submitted to the other acts of trade, however grievous some of them may be. This may be compared to a treaty of commerce, by which those distinct states are cemented together, in perpetual league and amity. And if any further ratifications of this pact or treaty are necessary, the colonies would readily enter into them, provided their other liberties were inviolate.

That the colonies owe "no allegiance" to any imperial crown, provided such a crown involves in it an house of lords and a house of commons, is certain. Indeed, we owe no allegiance to any crown at all. We owe allegiance to the person of his majesty, king George the third, whom God preserve. But allegiance is due universally, both from Britons and Americans to the person of the king, not to his crown: to his natural, not his politic capacity: as I will undertake to prove hereafter, from the highest authorities, and most solemn adjudications, which were ever made within any part of the British dominions.

If his majesty's title to the crown is "derived from an act of parliament, made since the settlement of these colonies," it was not made since the date of our charter. Our charter was granted by king William and queen Mary, three years after the revolution; and the oaths of allegiance are established by a law

of the province. So that our allegiance to his majesty is not due by virtue of any act of a British parliament, but by our own charter and province laws. It ought to be remembered, that there was a revolution here, as well as in England, and that we made an original, express contract with king William, as well as the people of England.

If it follows from thence, that he appears king of the Massachusetts, king of Rhode-Island, king of Connecticut, &c. this is no absurdity at all. He will appear in this light, and does appear so, whether parliament has authority over us or not. He is king of Ireland, I suppose, although parliament is allowed to have authority there. As to giving his majesty those titles, I have no objection at all: I wish he would be graciously pleased to assume them.

The only proposition in all this writer's long string of pretended absurdities, which he says follows from the position, that we are distinct states, is this: That, "as the king must govern each state by its parliament, those several parliaments would pursue the particular interest of its own state; and however well disposed the king might be to pursue a line of interest that was common to all, the checks and controul that he would meet with, would render it impossible." Every argument ought to be allowed its full weight: and therefore candour obliges me to acknowledge, that here lies all the difficulty that there is in this whole controversy. There has been, from first to last, on both sides of the Atlantic, an idea, an apprehension that it was necessary, there should be some superintending power, to draw together all the wills, and unite all the strength of the subjects in all the dominions, in case of war, and in the case of trade. The necessity of this, in case of

trade, has been so apparent, that, as has often been said, we have consented that parliament should exercise such a power. In case of war, it has by some been thought necessary. But, in fact and experience, it has not been found so. What though the proprietary colonies, on account of disputes with the proprietors, did not come in so early to the assistance of the general cause in the last war, as they ought, and perhaps one of them not at all! The inconveniences of this were small, in comparison of the absolute ruin to the liberties of all which must follow the submission to parliament, in all cases, which would be giving up all the popular limitations upon the government. These inconveniences fell chiefly upon New England. She was necessitated to greater exertions: but she had rather suffer these again and again, than others infinitely greater. However this subject has been so long in contemplation, that it is fully understood now, in all the colonies; so that there is no danger in case of another war, of any colony's failing of its duty.

But admitting the proposition in its full force, that it is absolutely necessary there should be a supreme power, co-extensive with all the dominions, will it follow that parliament, as now constituted, has a right to assume this supreme jurisdiction? By no means.

A union of the colonies might be projected, and an American legislature; for, if America has 3,000,000 people, and the whole dominions 12,000,000, she ought to send a quarter part of all the members to the house of commons, and instead of holding parliaments always at Westminster, the haughty members for Great Britain must humble themselves, one session in four, to cross the atlantic, and hold the

parliament in America.

There is no avoiding all inconveniences in human affairs. The greatest possible or conceivable would arise from ceding to parliament power over us, without a representation in it. The next greatest would accrue from any plan that can be devised for a representation there. The least of all would arise from going on as we begun, and fared well for 150 years, by letting parliament regulate trade, and our own assemblies all other matters.

As to "the prerogatives not being defined, or limited," it is as much so in the colonies as in Great Britain, and as well understood, and as cheerfully submitted to in the former as the latter.

But "where is the British constitution, that we all agree we are entitled to?" I answer, if we enjoy, and are entitled to more liberty than the British constitution allows, where is the harm? Or, if we enjoy the British constitution in greater purity and perfection than they do in England, as is really the case, whose fault is this? Not ours.

We may find all the blessings "of this constitution in our provincial assemblies." Our houses of Representatives have, and ought to exercise, every power of the House of Commons. The first charter to this colony is nothing to the present argument: but it did grant a power of taxing the people, implicitly, though not in express terms. It granted all the rights and liberties of Englishmen, which include the power of taxing the people.

"Our council boards," in the royal governments, "are destitute of the noble independence and splendid appendages of peerages." Most certainty: they are the

meanest creatures and tools in the political creation; dependent every moment for their existence on the tainted breath of a prime minister. But they have the authority of the house of lords, in our little models of the English constitution; and it is this which makes them so great a grievance. The crown has really two branches of our legislature in its power. Let an act of parliament pass at home, putting it in the power of the king, to remove any peer from the house of lords at his pleasure, and what will become of the British constitution? It will be overturned from the foundation. Yet we are perpetually insulted, by being told, that making our council by mandamus, brings us nearer to the British constitution. In this province, by charter, the council certainly hold their seats for the year, after being chosen and approved, independent of both the other branches. For their creation, they are equally obliged to both the other branches; so that there is little or no bias in favour of either, if any, it is in favour of the prerogative. In short, it is not easy without an hereditary nobility, to constitute a council more independent, more nearly resembling the house of lords, than the council of this province has ever been by charter. But perhaps it will be said that we are to enjoy the British constitution in our supreme legislature, the parliament, not in our provincial legislatures.

To this I answer, if parliament is to be our supreme legislature, we shall be under a complete oligarchy or aristocracy, not the British constitution, which this writer himself defines a mixture of monarchy, aristocracy, and democracy.—For king, lords and commons will constitute one great oligarchy, as they will stand related to America, as much as the decemvirs did in Rome; with this difference for the worse, that our rulers are to be three thousand miles

off. The definition of an oligarchy, is a government by a number of grandees, over whom the people have no controul. The states of Holland were once chosen by the people frequently; then chosen for life. Now they are not chosen by the people at all. When a member dies, his place is filled up, not by the people he is to represent, but by the states. Is not this depriving the Hollanders of a free constitution, and subjecting them to an aristocracy, or oligarchy? Will not the government of America be like it? Will not representatives be chosen for them by others, whom they never saw nor heard of? If our provincial constitutions are in any respect imperfect and want alteration, they have capacity enough to discern it, and power enough to effect it, without the interposition of parliament. There never was an American constitution attempted by parliament, before the Quebec bill and Massachusetts bill. These are such *samples* of what they may, and probably will be, that few Americans are in love with them. However, America will never allow that parliament has any authority to alter their constitution at all. She is wholly penetrated with a sense of the necessity of resisting it, at all hazards. And she would resist it, if the constitution of the Massachusetts had been altered as much for *the better*, as it is for the worse. The question we insist on most is not whether the alteration is for the better or not, but whether parliament has any right to make any alteration at all. And it is the universal sense of America, that it has none.

We are told that "the provincial constitutions have no principle of stability within themselves." This is so great a mistake, that there is not more order, or stability in any government upon the globe, than there ever has been in that of Connecticut. The same

may be said of the Massachusetts and Pennsylvania; and indeed of the others very nearly. "That these constitutions in turbulent times would become wholly monarchial, or wholly republican;" they must be such times as would have a similar effect upon the constitution at home. But in order to avoid the danger of this, what is to be done? Not give us an English constitution, it seems, but make sure of us at once, by giving us constitutions wholly monarchical, annihilating our houses of representatives first, by taking from them the support of government, &c. and then making the councils and judges wholly dependant on the crown.

That a representation in parliament is impracticable we all agree: but the consequence is, that we must have a representation in our supreme legislatures here. This was the consequence that was drawn by kings, ministers, our ancestors, and the whole nation, more than a century ago, when the colonies were first settled, and continued to be the general sense until the last peace; and it must be the general sense again soon, or Great Britain will lose her colonies.

This is apparently the meaning of that celebrated passage in Gov. Hutchinson's letter, that rung through the continent, viz. "There must be an abridgment of what is called English liberties." But all the art and subtlety of Massachusettensis will never vindicate or excuse that expression. According to this writer, it should have been "there is an abridgment of English liberties, and it cannot be otherwise." But every candid reader must see that the letter writer had more than that in his *view* and in his *wishes*. In the same letter, a little before, he says, "what marks of resentment the parliament will shew, whether they will be upon the province in general,

or particular persons, is extremely uncertain; but that they will be placed somewhere is most certain, and I add, *because I think it ought to be so*." Is it possible to read this without thinking of the port bill, the charter bill, and the resolves for sending persons to England by the statute of Henry VIII. to be tried! But this is not all. "This is most certainly a crisis," says he, &c. "If no measure shall have been taken to secure this dependence, (i.e. the dependence which a colony ought to have upon the parent state) it is all over with us." "The friends of government will be utterly disheartened; and the friends of anarchy will be afraid of nothing, be it ever so extravagant." But this is not all. "I never think of the measures necessary for the peace and good order of the colonies without pain." "There must be an abridgment of what are called English liberties." What could he mean? Any thing less than depriving us of trial by jury? Perhaps he wanted an act of parliament to try persons here for treason by a court of admiralty. Perhaps an act that the province should be governed by a governor and a mandamus council, without an house of representatives. But to put it out of all doubt that his meaning was much worse than Massachusettensis endeavors to make it, he explains himself in a subsequent part of the letter. "I wish," says he, "the good of the colony, *when I wish to see some further restraint of liberty*." Here it is rendered certain, that he is pleading for a further restraint of liberty, not explaining the restraint, he apprehended the constitution had already laid us under.

My indignation at this letter, has sometimes been softened by compassion. It carries on the face of it evident marks of *madness*. It was written in such a transport of passions, *ambition* and *revenge* chiefly, that his reason was manifestly overpowered. The

vessel was tost in such a hurricane, that she could not feel her helm. Indeed, he seems to have had a confused consciousness of this himself. Pardon me this excursion, says he, it really proceeds from the state of mind into which our perplexed affairs often throws me."

"It is our highest interest to continue a part of the British empire; and equally our duty to remain subject to the authority of parliament," says Massachusettensis.

We are a part of the British dominions, that is of the king of Great Britain, and it is our interest and duty to continue so. It is equally our interest and duty to continue subject to the authority of parliament, in the regulation of our trade, as long as she shall leave us to govern our internal policy, and to give and grant our own money, and no longer.

This letter concludes with an agreeable flight of fancy. The time may not be so far off, however, as this writer imagines, when the colonies may have the balance of numbers and wealth in her favour. But when that shall happen, if we should attempt to rule her by an American parliament, without an adequate representation in it, she will infallibly resist us by her arms.

NOVANGLUS.

ADDRESSED

To the Inhabitants of the Colony of Massachusetts Bay,

March 13, 1775.

MY FRIENDS,

IT has been often observed by me, and it cannot be too often repeated, that *colonization* is *casus omissus* at common law. There is no such title known in that law. By common law, I mean that system of customs, written and unwritten, which was known and in force in England, in the time of king Richard 1st. This continued to be the case, down to the reign of Elizabeth, and king James 1st. In all that time, the laws of England were confined to the realm, and within the four seas. There was no provision made in this law for governing colonies beyond the Atlantic, or beyond the four seas, by authority of parliament, no nor for the king to grant charters to subjects to settle in foreign countries. It was the king's prerogative to prohibit the emigration of any of his subjects, by issuing his writ *ne exeat regno*. And therefore it was in the king's power to permit his subjects to leave the kingdom. 1 Hawk. P.C. c. 22. § 4. "It is a high crime to disobey the king's lawful commands, or prohibitions, as not returning from beyond sea, upon the king's letters to that purpose; for which the offender's lands shall be seized until he return; and when he does return, he shall be fined, &c. or going beyond sea, against the king's will, expressly signified, either by the writ *ne exeat regno*,

or under the great or privy seal, or signet, or by proclamation." When a subject left the kingdom, by the king's permission, and if the nation did not remonstrate against it, by the nation's permission too, at least connivance, he carried with him, as a man, all the rights of nature. His allegiance bound him to the king, and entitled him to protection. But how? not in France; the king of England was not bound to protect him in France, nor in America; not in the dominions of Lewis, nor of Passachus, or Massachusetts. He had a right to protection, and the liberties of England upon his return there, not otherwise. How then do we, New Englandmen, derive our laws? I say, not from parliament, not from common law, but from the law of nature, and the compact made with the king in our charters. Our ancestors were entitled to the common law of England, when they emigrated, that is, to just so much of it as they pleased to adopt, and no more. They were not bound or obliged to submit to it, unless they chose it. By a positive principle of the common law, they were bound, let them be in what part of the world they would, to do nothing against the allegiance of the king. But no kind of provision was ever made by common law, for punishing or trying any man, even for treason, committed out of the realm. He must be tried in some county of the realm, by that law, the county where the overt-act was done, or he could not be tried at all. Nor was any provision ever made, until the reign of Henry VIII. for trying treasons committed abroad, and the acts of that reign were made on purpose to catch cardinal Pole.

So that our ancestors, when they emigrated, having obtained permission of the king to come here, and being never commanded to return into the realm,

had a clear right to have erected in this wilderness a British constitution, or a perfect democracy, or any other form of government they saw fit. They indeed, while they lived, could not have taken arms against the king of England, without violating their allegiance, but their children would not have been born within the king's allegiance, would not have been natural subjects, and consequently not entitled to protection, or bound to the king.

Massachusettensis, Jan. 16, seems possessed of these ideas, and attempts in the most aukward manner, to get rid of them. He is conscious that America must be a part of the realm, before it can be bound by the authority of parliament; and therefore is obliged to suggest, that we are annexed to the realm, and to endeavour to confuse himself and his readers, by confounding the realm, with the empire and dominions.

But will any man soberly contend, that America was ever annexed to the realm? to what realm? When New England was settled, there was a realm of England, a realm of Scotland, and a realm of Ireland. To which of these three realms was New England annexed? To the realm of England, it will be said. But by what law? no territory could be annexed to the realm of England, but by an act of parliament. Acts of parliament have been passed to annex Wales, &c. &c. to the realm. But none ever passed to annex America. But if New-England was annexed to the realm of England, how came she annexed to the realm of, or kingdom of Great Britain? The two realms of England and Scotland were, by the act of union, incorporated into one kingdom by the name of Great Britain: but there is not one word about

America in that act.

Besides, if America was annexed to the realm, or a part of the kingdom, every act of parliament that is made, would extend to it, named or not named. But every body knows that every act of parliament, and every other record, constantly distinguishes between this kingdom, and his majesty's other dominions. Will it be said that Ireland is annexed to the realm, or a part of the kingdom of Great Britain? Ireland is a distinct kingdom, or realm, by itself, notwithstanding British parliament claims a right of binding it in all cases, and exercises it in some. And even so the Massachusetts is a realm, New York is a realm, Pennsylvania another realm, to all intents and purposes, as much as Ireland is, or England or Scotland ever were. The king of Great Britain is the sovereign of all these realms.

This writer says, "that in denying that the Colonies are annexed to the realm, and subject to the authority of parliament, individuals and bodies of men subvert the fundamentals of government, deprive us of British liberties, and build up absolute monarchy in the colonies."

This is the first time that I ever heard or read that the colonies are annexed to the realm. It is utterly denied that they are, and that it is possible they should be, without an act of parliament, and acts of the colonies. Such an act of parliament cannot be produced, nor any such law of any one colony. Therefore as this writer builds the whole authority of parliament upon this fact, viz: That the colonies are annexed to the realm, and as it is certain they never were so annexed, the consequence is, that his whole superstructure falls.

When he says, that they subvert the fundamentals of government, he begs the question. We say that the contrary doctrines subvert the fundamentals of government. When he says that they deprive us of British liberties, he begs the question again. We say that the contrary doctrine deprives us of English liberties; as to British liberties, we scarcely know what they are, as the liberties of England and Scotland are not precisely the same to this day. English liberties are but certain rights of nature, reserved to the citizen, by the English constitution, which rights cleaved to our ancestors, when they crossed the Atlantic, and would have inhered in them, if instead of coming to New-England they had gone to Outaheite, or Patagonia, even although they had taken no patent or charter from the king at all. These rights did not adhere to them the less, for their purchasing patents and charters, in which the king expressly stipulates with them, that they and their posterity should forever enjoy all those rights and liberties.

The human mind is not naturally the clearest atmosphere; but the clouds and vapours which have been raised in it, by the artifices of temporal and spiritual tyrants, have made it impossible to see objects in it distinctly. Scarcely any thing is involved in more systematical obscurity, than the rights of our ancestors, when they arrived in America. How, in common sense, came the dominions of king Philip, king Massachusetts, and twenty other sovereigns, independent princes here, to be within the allegiance of the kings of England, James and Charles? America was no more within the allegiance of those princes, by the common law of England, or by the law of nature, than France and Spain were. Discovery, if that was incontestible, could give no title to the

English king, by common law, or by the law of nature, to the lands, tenements, and hereditaments of the native Indians here. Our ancestors were sensible of this, and therefore honestly purchased their lands of the natives. They might have bought them to hold allodially, if they would.

But there were two ideas, which confused them, and have continued to confuse their posterity, one derived from the feudal, the other from the canon law. By the former of these systems, the prince, the general, was supposed to be sovereign lord of all the lands, conquered by the soldiers in his army; and upon this principle, the king of England was considered in law as sovereign lord of all the land within the realm. If he had sent an army here to conquer king Massachusetts, and it had succeeded, he would have been sovereign lord of the land here upon these principles; but there was no rule of the common law, that made the discovery of a country by a subject, a title to that country in the prince. But conquest would not have annexed the country to the realm, nor have given any authority to the parliament. But there was another mist cast before the eyes of the English nation from another source. The pope claimed a sovereign propriety in, as well as authority over the whole earth. As head of the christian church, and vicar of God, he claimed this authority over all Christendom; and, in the same character, he claimed a right to all the countries and possessions of heathens and infidels; a right divine to exterminate and destroy them at his discretion, in order to propagate the catholic faith. When king Henry VIII. and his parliament, threw off the authority of the pope, stripped his holiness of his supremacy, and invested it in himself by an act of parliament, he and his courtiers seemed to think that

all the rights of the holy see were transferred to him; and it was a union of these two, the most impertinent and fantastical ideas that ever got into an human pericranium, viz: that as feudal sovereign and supreme head of the church together, a king of England had a right to all the land their subjects could find, not possessed by any christian state, or prince, though possessed by heathen or infidel nations, which seems to have deluded the nation about the time of the settlement of the colonies. But none of these ideas gave or inferred any right in parliament, over the new countries conquered or discovered; and therefore denying that the colonies are a part of the realm, and that as such they are subject to parliament, by no means deprives us of English liberties. Nor does it "build up absolute monarchy in the colonies." For admitting these notions of the common and feudal law to have been in full force, and that the king was absolute in America, when it was settled; yet he had a right to enter into a contract with his subjects, and stipulate that they should enjoy all the rights and liberties of Englishmen forever, in consideration of their undertaking to clear the wilderness, propagate christianity, pay a fifth part of ore, &c. Such a contract as this has been made with all the colonies; royal governments, as well as charter ones. For the commissions to the governors contain the plan of the government, and the contract between the king and subject, in the former, as much as the charters in the latter.

Indeed this was the reasoning, and upon these feudal and *catholic* principles in the time of some of the predecessors of Massachusettensis. This was the meaning of Dudley, when he asked, "Do you think that English liberties will follow you to the ends of

the earth?" His meaning was, that English liberties were confined to the realm, and out of that the king was absolute. But this was not true; for an English king had no right to be absolute over Englishmen, out of the realm, any more than in it, and they were released from their allegiance, as soon as he deprived them of their liberties.

But "our charters suppose regal authority in the grantor." True they suppose it, whether there was any or not. "If that authority be derived from the British (he should have said English) crown, it presupposes this territory to have been a part of the British (he should have said English) dominion, and as such subject to the imperial sovereign." How can this writer shew this authority to be derived from the English crown, including in the idea of it lords and commons? Is there the least color for such an authority but in the popish and feudal ideas before mentioned? And do these popish and feudal ideas include parliament? Was parliament, were lords and commons parts of the head of the church, or was parliament, that is, lords and commons, part of the sovereign feudatory? Never. But why was this authority derived from the English, any more than the Scottish or Irish crown? It is true the land was to be held in soccage, like the manor of East Greenwich; but this was compact, and it might have been as well to hold, as they held in Glasgow or Dublin.

But, says this writer, "if that authority was vested in the person of the king in a different capacity, the British constitution and laws are out of the question, and the king must be absolute as to us, as his prerogatives have never been limited." Not the prerogatives limited in our charters, when in every

one of them all the rights of Englishmen are secured to us! Are not the rights of Englishmen sufficiently known, and are not the prerogatives of the king among those rights?

As to those colonies which are destitute of charters, the commissions to their governors have ever been considered as equivalent securities, both for property, jurisdiction, and privileges, with charters; and as to the power of the crown being absolute in those colonies, it is absolute no where. There is no fundamental or other law, that makes a king of England absolute any where, except in conquered countries; and an attempt to assume such a power, by the fundamental laws, forfeits the prince's right even to the limited crown.

As to "the charter governments reverting to absolute monarchy, as their charters may happen to be forfeited, by the grantees not fulfilling the conditions of them;" I answer, if they could be forfeited, and were actually forfeited, the only consequence would be, that the king would have no power over them at all. He would not be bound to protect the people, nor, that I can see, would the people here, who were born here, be, by any principle of common law, bound even to allegiance to the king. The connection would be broken between the crown and the natives of the country.

It has been a great dispute whether charters granted within the realm, can be forfeited at all. It was a question debated with infinite learning, in the case of the charter of London: it was adjudged forfeited, in an arbitrary reign: but afterwards, after the revolution, it was declared in parliament, not forfeited, and by an act of parliament made

incapable of forfeiture. The charter of Massachusetts was declared forfeited too. So were other American charters. The Massachusetts alone, were tame enough to give it up. But no American charter will ever be decreed forfeited again, or if any should, the decree will be regarded no more, than a vote of the lower house of the robinhood society. The court of chancery has no authority without the realm; by common law, surely it has none in America. What! the privileges of millions of Americans depend on the discretion of a lord chancellor? God forbid! The passivity of this colony in receiving the present charter, in lieu of the first, is, in the opinion of some, the deepest stain upon its character. There is less to be said in excuse for it, than the witchcraft, or hanging the Quakers. A vast party in the province were against it at the time, and thought themselves betrayed by their agent. It has been a warning to their posterity, and one principal motive with the people, never to trust any agent with power to concede away their privileges again. It may as well be pretended that the people of Great Britain can forfeit their privileges, as the people of this province. If the contract of state is broken, the people and king of England must recur to nature. It is the same in this province. We shall never more submit to decrees in chancery, or acts of parliament, annihilating charters, or abridging English liberties.

Whether Massachusettensis was born as a politician, in the year 1764, I knew not: but he often writes as if he know nothing of that period. In his attempt to trace the denial of the supreme authority of the parliament, he commits such mistakes, as a man of age, at that time, ought to blush at. He says, that "when the stamp act was made, the authority of parliament to impose external taxes, or, in other

words, to lay duties upon goods and merchandize was admitted," and that when the tea act was made, "a new distinction was set up, that parliament had a right to lay duties upon merchandize, for the purpose of regulating trade, but not for the purpose of raising a revenue." This is a total misapprehension of the declared opinions of people at those times. The authority of parliament to lay taxes for a revenue has been always generally denied. And their right to lay duties to regulate trade, has been denied by many, who have ever contended that trade should be regulated only by prohibitions.

The act of parliament of the 4th George 3d, passed in the year 1764, was the first act of the British parliament that ever was passed, in which the design of raising a revenue was expressed. Let Massachusettensis name any statute before that, in which the word revenue is used, or the thought of raising a revenue is expressed. This act is entitled, "an act for granting certain duties in the British colonies, and plantations in America," &c. The word revenue, in the preamble of this act, instantly ran through the colonies, and rang an alarm, almost as much as if the design of forging chains for the colonists had been expressed in words. I have now before me a pamphlet, written and printed in the year 1764, entitled, "The sentiments of a British American," upon this act. How the idea of a revenue, though from an acknowledged external tax, was relished in that time, may be read in the frontispiece of that pamphlet.

Ergo quid refert mea
Cui serviam? clitellas dum portem meas.
PHAEDRUS.

The first objection to this act, which was made in that pamphlet, by its worthy author, OXENBRIDGE THACHER, Esq. who died a martyr to that amity for his country, which the conduct of the junto gave him, is this, "The first objection is, that a tax is thereby laid on several commodities, to be raised and levied in the plantations, and to be remitted home to England. This is esteemed a grievance, inasmuch as the same are laid, without the consent of the representatives of the colonists. It is esteemed an essential British right, that no person shall be subject to any tax; but what in person, or by his representative, he hath a voice in laying." Here is a tax unquestionably external, in the sense in which that word is used, in the distinction that is made by some between external and internal taxes, and unquestionably laid in part for the regulation of trade; yet called a grievance, and a violation of an essential British right, in the year 1764, by one who was then at the head of the popular branch of our constitution, and as well acquainted with the sense of his constituents, as any man living. And it is indisputable, that in those words he wrote the almost universal sense of this colony.

There are so many egregious errors in point of fact, and respecting the opinions of the people in this writer, which it is difficult to impute to wilful misrepresentation, that I sometimes think he is some smart young gentleman, come up into life since this great controversy was opened; if not, he must have conversed wholly with the junto, and they must have deceived him, respecting their own sentiments.

This writer sneers at the distinction between a right to lay the former duty of a shilling on the pound of tea, and the right to lay the three pence. But is there

not a real difference between laying a duty to be paid in England upon exportation, and to be paid in America upon importation? Is there not a difference between parliament's laying on duties within their own realm, where they have undoubtedly jurisdiction, and laying them out of their realm, nay laying them on in our realm, where we say they have no jurisdiction? Let them lay on what duties they please in England, we have nothing to say against that.

"Our patriots most heroically resolved to become independent states, and flatly denied that parliament had a right to make any laws whatever that should be binding upon the colonies."

Our scribbler, more heroically still, is determined to shew the world, that he has courage superior to all regard to modesty, justice, or truth. Our patriots have never determined, or desired to be independent states, if a voluntary cession of a right to regulate their trade can make them dependent even on parliament, though they are clear in theory, that by the common law, and the English constitution, parliament has no authority over them. None of the patriots of this province, of the present age, have ever denied that parliament has a right, from our voluntary cession, to make laws which shall bind the colonies, as far as their commerce extends.

"There is no possible medium between absolute independence and subjection to the authority of parliament." If this is true, it may be depended upon, that all North America are as fully convinced of their independence, their absolute independence, as they are of their own existence, and as fully determined to defend it at all hazards, as Great Britain is to defend

her independence against foreign nations. But it is not true. An absolute independence of parliament, in all internal concerns and cases of taxation, is very compatible with an absolute dependence on it, in all cases of external commerce.

"He must be blind indeed that cannot see our dearest interest in the latter, (that is in an absolute subjection to the authority of parliament,) notwithstanding many pant after the former" (that is absolute independence.) The man who is capable of writing, in cool blood, that our interest lies in an absolute subjection to parliament, is capable of writing, or saying any thing for the sake of his pension: a legislature that has so often discovered a want of information concerning us and our country; a legislature interested to lay burdens upon us; a legislature, two branches of which, I mean the lords and commons, neither love nor fear us! Every American of fortune and common sense, must look upon his property to be sunk downright one half of its value, the moment such an absolute subjection to parliament is established.

That there are any who pant after "independence," (meaning by this word a new plan of government over all America, unconnected with the crown of England, or meaning by it an exemption from the power of parliament to regulate trade) is as great a slander upon the province as ever was committed to writing. The patriots of this province desire nothing new; they wish only to keep their old privileges. They were for 150 years allowed to tax themselves, and govern their internal concerns, as they thought best. Parliament governed their trade as they thought fit. This plan, they wish may continue forever. But it is honestly confessed, rather than become subject to

the absolute authority of parliament, in all cases of taxation and internal polity, they will be driven to throw off that of regulating trade.

"To deny the supreme authority of the state, is a high misdemeanor; to oppose it by force, an overt act of treason." True: and therefore Massachusettensis, who denies the king represented by his governor, his majesty's council, by charter, and house of representatives, to be the supreme authority of this province, has been guilty of a high misdemeanour: and those ministers, governors, and their instruments, who have brought a military force here, and employed it against that supreme authority, are guilty of ——, and ought to be punished with ——. I will be more mannerly than Massachusettensis.

"The realm of England is an appropriate term for the ancient realm of England, in contradistinction to Wales and other territories, that have been annexed to it."

There are so many particulars in the case of Wales analogous to the case of America, that I must beg leave to enlarge upon it.

Wales was a little portion of the island of Great Britain, which the Saxons were never able to conquer. The Britons had reserved this tract of land to themselves, and subsisted wholly by pasturage, among their mountains. Their princes, however, during the Norman period, and until the reign of king Edward the first, did homage to the crown of England, as their feudal sovereign, in the same manner as the prince of one independent state in Europe frequently did to the sovereign of another. This little principality of shepherds and cowherds,

had however maintained their independence, through long and bloody wars against the omnipotence of England, for 800 years. It is needless to enumerate the causes of the war between Lewellyn and Edward the first. It is sufficient to say that the Welch prince refused to go to England to do homage, and Edward obtained a new aid of a fifteenth from his parliament, to march with a strong force into Wales. Edward was joined by David and Roderic, two brothers of Lewellyn, who made a strong party among the Welch themselves, to assist and second the attempts to enslave their native country. The English monarch, however, with all these advantages, was afraid to put the valor of his enemies to a trial, and trusted to the *slow effects of famine* to subdue them. Their pasturage, with such an enemy in their country, could not subsist them, and Lewellyn, Nov. 19, 1277, at last submitted, and bound himself to pay a reparation of damages, to do homage to the crown of England, and almost to surrender his independence as a prince, by permitting all the other Barons of Wales, excepting four, to swear fealty to the same crown. But fresh complaints soon arose. The English grew insolent on their bloodless victory, and oppressed the inhabitants; many insults were offered, which at last raised the indignation of the Welch, so that they determined again to take arms, rather than bear any longer the oppression of the haughty victors. The war raged sometime, until Edward summoned all his military tenants, and advanced with an army too powerful for the Welch to resist. Lewellyn was at last surprized, by Edward's general Mortimer, and fighting at a great disadvantage, was slain, with two thousand of his men. David, who succeeded in the principality, maintained the war for some time, but

at last was betrayed to the enemy, sent in chains to Shrewsbury, brought to a formal trial before the peers of England, and although a sovereign prince, ordered by Edward to be hanged, drawn and quartered, as a traitor, for defending by arms the liberties of his native country! All the Welch nobility submitted to the conqueror. The laws of England, sheriffs, and other ministers of justice, were established in that principality, which had maintained its liberties and independency, 800 years.

Now Wales was always part of the dominions of England. "Wales was always feudatory to the kingdom of England." It was always held of the crown of England, or the kingdom of England: that is, whoever was king of England, had a right to homage, &c. from the prince of Wales. But yet Wales was not parcel of the realm or kingdom, nor bound by the laws of England. I mention, and insist upon this, because it shews, that although the colonies are bound to the crown of England, or, in other words, owe allegiance to whomsoever is king of England; yet it does not follow that the colonies are parcel of the realm or kingdom, and bound by its laws. As this is a point of great importance, I must beg pardon, however unentertaining it may be, to produce my authorities.

Comyns digest, v. 5. page 626. Wales was always feudatory to the kingdom of England.

Held of the crown, but not parcel. Per Cook. 1 Roll. 247. 2 Roll. 29. And therefore the kings of Wales did homage, and swore fealty to H. 2. and John and H. 3.

And 11 Ed. 1. Upon the conquest of Lewellyn, prince or king of Wales, that principality became a part of

the dominion of the realm of England. And by the statute Walliae 12 Ed. 1. It was annexed and united to the crown of England, *tanquam partem corporis ejusdem, &c.* Yet if the statute Walliae, made at Rutland 12 Ed. 1. was not an act of parliament (as it seems that it was not) the incorporation made thereby was only an union "*jure feudali, et non jure proprietatis*."

"Wales, before the union with England, was governed by its proper laws," &c.

By these authorities it appears, that Wales was subject, by the feudal law, to the crown of England, before the conquest of Lewellyn; but not subject to the laws of England; and indeed after this conquest, Edward and his nobles, did not seem to think it subject to the English parliament, but to the will of the king as a conqueror of it in war. Accordingly that instrument which is called *Statutum Walliae*, and to be found in the appendix to the statutes p. 3, although it was made by the advice of the peers, or officers of the army more properly, yet it never was passed as an act of parliament, but as an edict of the king. It begins not in the stile of an act of parliament. *Edwardus Dei gratia Rex Angliae, Dominus Hyberniae, et Dux Aquitaniae, omnibus fidelibus suis, &c. in Wallia. Divina providentia, quae in sui dispositione*, says he, *non fallitur, inter alia dispensationis suae munera, quibus nos et Regnum nostrum Angliae decorare dignata est, terram Walliae, cum, incolis suis, prius, nobis*, jure feudali *subjectam, jam sui gratia*, in proprietatis nostrae dominium, *obstaculis quibuscumque cessantibus, totaliter, et cum integritate convertit*, et coronae regni praedicti, tanquam partem corporis ejusdem annexuit et univit.

Here is the most certain evidence that Wales was subject to the kings of England by the feudal law before the conquest, though not bound by any laws but their own. 2d. That the conquest was considered, in that day, as conferring the property, as well as jurisdiction of Wales to the English crown. 3. The conquest was considered as annexing and uniting Wales to the English crown, both in point of property and jurisdiction, as a part of one body. Yet notwithstanding all this, parliament was not considered as acquiring any share in the government of Wales by this conquest. If, then, it should be admitted that the colonies are all annexed and united to the crown of England, it will not follow that lords and commons have any authority over them.

This statutum Walliae, as well as the whole case and history of that principality, is well worthy of the attention and study of Americans, because it abounds with evidence, that a country may be subject to the crown of England, without being subject to the lords and commons of that realm, which entirely overthrows the whole argument of Gov. Hutchinson, and of Massachusettensis, in support of the supreme authority of parliament, over all the dominions of the imperial crown. "*Nos itaque*, &c. says King Edward 1. "*volentes predictam terram, &c. sicut et caeteras ditioni nostrae subjectas, &c. subdebito regimine gubernari, et incolas seu habitatores terrarum illaram, qui alto et basso*, se submiserunt voluntati nostrae, *et quos sic ad nostram recepimus voluntatem, certis legibus et consuetudinibus, &c. tractari leges, et consuetudines, partum illarum hactenus usitatas coram nobis et proceribus regni nostri fecimus recitari, quibus diligenter auditis, et plenus intellectis, quasdam ipsarum de concilio procerum predictorum delevimus, quasdam permisimus, et quasdam correximus, et etiam quasdam*

alias adjungendas et statuendas decrevimus, et eas, &c. observari volumus in forma subscripta."

And then goes on to prescribe and establish a whole code of laws for the principality, in the style of a sole legislature, and concludes,

Et ideo vobis mandamus, quod premissa de cetero in omnibus firmiter observatis. Ita tamen quod quotiescunque, et quandocunque, et ubicunque, nobis placuerit, possimus predicta statuta et coram partes singulas declarare, interpretari, addere sive diminuere, pro nostro libito voluntatis, et prout securitati nostrae et terrae nostrae predictae viderimus expedire.

Here is then a conquered people submitting to a system of laws framed by the mere will of the conqueror, and agreeing to be forever governed by his mere will. This absolute monarch, then, might afterwards govern this country, with or without the advice of his English lords and commons.

To shew that Wales was held before the conquest of Lewellyn, of the king of England, although governed by its own laws, hear lord Coke, Inst. 194, in his commentary on the statute of Westminster. "At this time, viz. in 3 Ed. 1. Lewellyn was a prince or king of Wales, who held the *same of the king of England, as his superior lord, and owed him liege homage and fealty*; and this is proved by our act, viz: that the king of England was *superior dominus*, i. e. sovereign lord of the kingdom, or principality of Wales."

Lord Coke, in 4 Inst. 239, says "Wales was sometime a realm, or kingdom, (realm from the French word royaume, and both a regno) and governed *per suas regulas*," and afterwards, "but *jure feudali*, the

kingdom of Wales was holden of the *crown of England*, and thereby, as Bracton saith, was *sub potestate regis*. And so it continued until the 11th year of king Edward 1st. when he subdued the prince of Wales, rising against him, and executed him for treason." "The next year, viz. in the 12th year of king Edward 1. by authority of parliament, it is declared thus, speaking in the person of the king, as ancient statutes were wont to do, *divina providentia*," &c. as in the statute *Walliae*, before recited. But here is an inaccuracy, for the *statutum Walliae* was not an act of parliament, but made by the king with the advice of his officers of the army, by his sole authority, as the statute itself sufficiently shews. "Note," says lord Coke, "diverse monarchs hold their kingdoms of others *jure feudali*, as the duke of Lombardy, Cicill, Naples, and Bohemia of the empire, Granado, Leons of Aragon, Navarre, Portugal of Castile; and so others."

After this the Welch seem to have been fond of the English laws, and desirous of being incorporated into the realm, to be represented in parliament, and enjoy all the rights of Englishmen, as well as to be bound by the English laws. But kings were so fond of governing this principality by their discretion alone, that they never could obtain these blessings until the reign of Henry 8th. and then they only could obtain a statute, which enabled the king to alter their laws at his pleasure. They did indeed obtain in the 15 Ed. 2. a writ to call twenty-four members to the parliament at York from South Wales, and twenty-four from North Wales; and again in the 20 Ed. 2. the like number of forty-eight members for Wales, at the parliament of Westminster. But lord Coke tells us "that this wise and warlike nation was long after the *statutum Walliae* not satisfied nor contented, and

especially, for that they truly and constantly took part with their rightful sovereign and liege lord, king Richard 2d.; in revenge whereof they had many severe and invective laws made against them in the reigns of Henry 4th. Henry 5th. &c. all which as unjust are repealed and abrogated. And to say the truth, this nation was never in quiet, until king Henry 7th. their own countryman, obtained the crown. And yet not so really reduced in his time, as in the reign of his son, Henry 8th. in whose time certain just laws, made at the humble suit of the subjects of Wales, the principality and dominion of Wales was incorporated and united to the realm of England; and enacted that every one born in Wales should enjoy the liberties, rights and laws of this realm, as any subjects naturally born within this realm should have and inherit, and that they should have knights of shires, and burgesses of parliament." Yet we see they could not obtain any security for their liberties, for lord Coke tells us, "in the act of 34 Henry 8th. it was enacted, that the king's most royal majesty should, from time to time change, &c. all manner of things in that act rehearsed, as to his most excellent wisdom and discretion should be thought convenient, and also to make laws and ordinances for the commonwealth of his said dominion of Wales at his majesty's pleasure. But for that, the subjects of the dominion of Wales, &c. had lived in all dutiful subjection to the crown of England, &c. the said branch of the said statute of 34 Henry 8th. is repealed, and made void by 21 Jac. c. 10."

But if we look into the statute itself of 27, Henry 8th. c. 26, we shall find the clearest proof, that being subject to the imperial crown of England, did not entitle Welchmen to the liberties of England, nor make them subject to the laws of England. "Albeit

the dominion, principality and country of Wales, *justly and righteously is, and ever hath been incorporated, annexed, united, and subject to and under the imperial crown of this realm, as a very member and joint of the same*; wherefore, the king's most royal majesty of mere droit, and very right, is very head, king, lord and ruler; yet notwithstanding, because that, in the same country, principality and dominion, diverse *rights*, *usages*, *laws* and customs be far discrepant from the laws and customs of this realm, &c. Wherefore it is enacted, by king, lords and commons, "that his" (i. e. the king's) said country or dominion of Wales shall be, stand and continue forever from henceforth, incorporated, united, and annexed to and with this, his realm of England; and that all and singular person and persons, born or to be born, in the said principality, country, or dominion of Wales, shall have, enjoy, and inherit, all and singular 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." § 2. Enacts that the laws of England shall be introduced and established in Wales: and that the laws, ordinances and statutes of this realm of England forever, and none other shall be used and practised forever thereafter, in the said dominion of Wales. The 27th § of this long statute enacts, that commissioners shall inquire into the laws and customs of Wales, and report to the king, who with his privy council, are empowered to establish such of them as they should think proper. § 28 Enacts that in all future parliaments *for this realm*, two knights for the shire of Monmouth, and one burgess for the town, shall be chosen and allowed such fees as other knights and burgesses of parliament were allowed. §

29 Enacts that one knight shall be elected for every shire within the country or dominion of Wales, and one burgess for every shire town, to serve in that and every future parliament to be holden for this realm. But by § 36 the king is empowered to revoke, repeal and abrogate that whole act, or any part of it, at any time within three years.

Upon this statute let it be observed, 1. That the language of Massachusettensis "imperial crown" is used in it: and Wales is affirmed to have *ever* been annexed, and united to that imperial crown, as a very member and joint: which shews that being annexed to the imperial crown, does not annex a country to the realm, or make it subject to the authority of parliament: because Wales certainly, before the conquest of Lewellyn, never was pretended to be so subject, nor afterwards ever pretended to be annexed to the realm at all, nor subject to the authority of parliament, any otherwise than as the king claimed to be absolute in Wales, and therefore to make laws for it, by his mere will, either with the advice of his proceres, or without. 2. That Wales never was incorporated with the realm of England, until this statute was made, nor subject to any authority of English lords and commons. 3. That the king was so tenacious of his exclusive power over Wales, that he would not consent to this statute, without a clause in it, to retain the power in his own hands, of giving it what system of law he pleased. 4. That knights and burgesses, i. e. representatives, were considered as *essential* and *fundamental* in the constitution of the new legislature, which was to govern Wales. 5. That since this statute, the distinction between the realm of England and the realm of Wales, has been abolished, and the realm of England, now, and ever since, comprehends both; so

that Massachusettensis is mistaken, when he says, that the realm of England is an appropriate term for the ancient realm of England, in contradistinction from Wales, &c. 6. That this union and incorporation was made by the consent, and upon the supplication of the people of Wales, as lord Coke and many other authors inform us, so that here was an express contract between the two bodies of people. To these observations let me add a few questions.

Was there ever any act of parliament, annexing, uniting, and consolidating any one of all the colonies to and with the realm of England or the kingdom of Great Britain? 2. If such an act of parliament should be made, would it upon any principles of English laws and government, have any validity, without the consent, petition, or supplication of the colonies? 3. Can such an union and incorporation, ever be made, upon any principles of English laws and government, without admitting representatives for the colonies in the house of commons, and American lords into the house of peers? 4. Would not representatives in the house of commons, unless they were numerous in proportion to the numbers of people in America, be a snare rather than a blessing? 5. Would Britain ever agree to a proportionable number of American members, and if she would, could America support the expense of them? 6. Could American representatives possibly know the sense, the exigencies, &c. of their constituents, at such a distance, so perfectly as it is absolutely necessary legislators should know? 7. Could Americans ever come to the knowledge of the behaviour of their members, so as to dismiss the unworthy? 8. Would Americans, in general, ever submit to septennial elections? 9. Have we not sufficient evidence, in the general frailty and depravity of human nature, and

especially the experience we have had of Massachusettensis and the junto, that a deep, treacherous, plausible, corrupt minister, would be able to seduce our members to betray us, as fast as we could send them?

To return to Wales. In the statute of 34 and 35 of Henry 8th. c. 26. we find a more complete system of laws and regulations for Wales. But the king is still tenacious of his absolute authority over it. It begins, "our sovereign lord the king, of his tender zeal and affection, &c. to his obedient subjects, &c. of Wales, &c. *hath devised and made* divers sundry good and necessary ordinances, which his majesty of his most abundant goodness, *at the humble suit and petition of his said subjects of Wales*, is pleased and contented to be enacted by the assent of the lords spiritual and temporal, and the commons," &c.

Nevertheless, the king would not yet give up his unlimited power over Wales, for by the 119 § of this statute, the king, &c. may at all times, hereafter, from time to time, change, add, alter, order, minish, and reform all manner of things afore rehearsed, as to his most excellent wisdom and discretion, shall be thought convenient; and also to make laws and ordinances for the commonwealth and good quiet of his said dominion of Wales, and his subjects of the same, from time to time, at his majesty's pleasure.

And this last section was never repealed, until the 21 Jac. 1. c. 10. § 4.

From the conquest of Lewellyn to this statute of James is near 350 years, during all which time the Welch were very fond of being incorporated and enjoying the English laws; the English were desirous that they should be, yet the crown would never

suffer it to be completely done, because it claimed an authority to rule it by discretion. It is conceived, therefore, that there cannot be a more complete and decisive proof of any thing, than this instance is, that a country may be subject to the crown of England, the imperial crown; and yet not annexed to the realm, or subject to the authority of parliament.

The word crown, like the word throne, is used in various figurative senses; sometimes it means the kingly office, the head of the commonwealth, but it does not always mean the political capacity of the king; much less does it include in the idea of it lords and commons. It may as well be pretended that the house of commons includes or implies a king. Nay, it may as well be pretended that the mace includes the three branches of the legislature.

By the feudal law, a person or a country might be subject to a king, a feudal sovereign, three several ways.

1. It might be subject to his person, and in this case, it would continue so subject, let him be where he would, in his dominions or without. 2. To his crown, and in this case subjection was due, to whatsoever person or family wore that crown, and would follow it, whatever revolutions it underwent. 3. To his crown and realm of state, and in this case, it was incorporated as one body with the principal kingdom; and if that was bound by a parliament, diet, or cortes, so was the other.

It is humbly conceived, that the subjection of the colonies by compact, and law is of the second sort.

Suffer me, my friends, to conclude by making my most respectful compliments to the gentlemen of the

regiment of royal Welch fusileers.[1]

In the celebration of their late festival, they discovered that they are not insensible of the feelings of a man for his native country. The most generous minds are the most exquisitely capable of this sentiment. Let me entreat them to recollect the history of their brave and intrepid countrymen, who struggled at least 1100 years for liberty. Let them compare the case of Wales with the case of America, and then lay their hands upon their hearts and say, whether we can in justice be bound by all acts of parliament, without being incorporated with the kingdom.

NOVANGLUS.

ADDRESSED

To the Inhabitants of the Colony of Massachusetts Bay,

March 27, 1775.

MY FRIENDS,

MASSACHUSETTENSIS in some of his writings has advanced, that our allegiance is due to the political capacity of the king, and therefore involves in it obedience to the British parliament. Gov. Hutchinson, in his memorable speech, laid down the same position. I have already shewn, from the case of Wales, that this position is groundless, and that allegiance was due from the Welch to the king, *jure feodali*, before the conquest of Lewellyn, and after that to the crown, until it was annexed to the realm, without being subject to acts of parliament any more than to acts of the king, without parliament. I shall hereafter shew from the case of Ireland, that subjection to the crown implies no obedience to parliament. But before I come to this, I must take notice of a pamphlet, entitled "A candid examination of the mutual claims of Great Britain and the colonies, with a plan of accommodation on constitutional principles." This author, p. 8, says, "to

him (i. e. the king) in his representative capacity, and as supreme executor of the laws, made by a joint power of him and others, the oaths of allegiance are taken," and afterwards: "hence these professions, (i. e. of allegiance) are not made to him either in his legislative, or executive capacities; but yet it seems they are made to the king. And into this distinction, *which is no where to be found* either in the constitution of the government, in reason or common sense, the ignorant and thoughtless have been deluded ever since the passing of the stamp act, and they have rested satisfied with it without the least examination." And in p. 9, he says, "I do not mean to offend the inventers of this refined distinction, when I ask them, is this acknowledgement made to the king, in his politic capacity as king of Great Britain, &c.? if so, it includes a promise of obedience to the British laws." There is no danger of this gentleman's giving offence to the inventers of this distinction, for they have been many centuries in their graves. This distinction is to be found every where. In the case of Wales, Ireland, and elsewhere, as I shall shew most abundantly before I have done, it is to be found in two of the greatest cases, and most deliberate and solemn judgments that were ever passed. One of them is Calvin's case, 7 Rep. which, as lord Coke tells us, was as elaborately, substantially, and judiciously argued, as he ever heard, or read of any. After it had been argued in the court of king's bench, by learned council, it was adjourned to the exchequer chamber, and there argued again, first by council on both sides, and then by the lord chancellor, and all the twelve judges of England, and among these were the greatest men, that Westminster-Hall ever could boast. Ellismore, Bacon, Hide, Hobart, Crook, and Coke, were all among them: and the chancellor and

judges were unanimous in resolving. What, says the book? 7. Rep. 10. "Now seeing the king hath but one person, and several capacities, and one politic capacity for the realm of England, and another for the realm of Scotland, it is necessary to be considered to which capacity *ligeance* is due. *And it was resolved* that it was due to the *natural person* of the king (which is ever accompanied with the politic capacity, and the politic capacity as it were appropriated to the natural capacity) and it is not due to the politic capacity only, that is, to the crown or kingdom, distinct from his natural capacity." And further on 7. Rep. 11. "But it was clearly resolved by all the judges, that presently by the descent his majesty was completely and absolutely king," &c. and that coronation was but a royal ornament. 6. "In the reign of Edward 2d. the Spencers, to cover the treason hatched in their hearts, invented this damnable and damned opinion, that homage and oath of allegiance was more by reason of the king's crown, (that is of his politic capacity) than by reason of the person of the king, upon which opinion they inferred execrable and detestable consequences." And afterwards, 12. "Where books and acts of parliament speak of the ligeance of England, &c. speaking briefly in a vulgar manner, are to be understood of the ligeance due by the people of England to the king; for no man will affirm, that England itself, taking it for the continent thereof, doth owe any ligeance or faith, or that *any faith or ligeance should be due to it*: but it manifestly appeareth, that the ligeance or faith of the subject is *proprium quarto modo* to the king, *omni, soli, et semper*. And oftentimes in the reports of our book cases, and in acts of parliament also, the crown or kingdom is taken for the king himself," &c. "Tenure in *capite* is a tenure of the crown, and is a

seigniorie in grosse, that is of the person of the king." And afterwards 6, "for special purposes *the law makes him a body politic, immortal and invisible, whereunto our allegiance cannot appertain*." I beg leave to observe here, that these words in the foregoing adjudication, that "the natural person of the king is ever accompanied with the politic capacity, and the politic capacity as it were appropriated to the natural capacity," neither imply nor infer allegiance or subjection to the politic capacity; because in the case of king James 1st. his natural person was "accompanied" with three politic capacities at least, as king of England, Scotland, and Ireland: yet the allegiance of an Englishman to him did not imply or infer subjection to his politic capacity, as king of Scotland.

Another place in which this distinction is to be found is in Moore's reports, p. 790. "The case of the union of the realm of Scotland with England." And this deliberation, I hope was solemn enough. This distinction was agreed on by commissioners of the English lords and commons in a conference with commissioners of the Scottish parliament, and after many arguments and consultations by the lord chancellor and all the judges, and afterwards adopted by the lords and commons of both nations. "The judges answered with one assent, says the book, that allegiance and laws were not of equiparation for six causes;" the sixth and last of which is, "allegiance followeth the *natural person* not the politick." "If the king go out of England with a company of his servants, allegiance remaineth among his subjects and servants, although he be out of his own realm, *whereto his laws are confined*, &c. and to prove the allegiance to be tied to the body natural of the king, not to the body politic, the lord Coke cited the

phrases of diverse statutes, &c. And to prove that allegiance extended further than the laws national, they (the judges) shewed that every king of diverse kingdoms, or dukedoms, is to command every people to defend any of his kingdoms, without respect of that nation where he is born; as if the king of Spain be invaded in Portugal, he may levy for defence of Portugal armies out of Spain, Naples, Castile, Milan, Flanders and the like; as a thing incident to the allegiance of all his subjects, to join together in defence of any of his territories, without respect of the extent of the laws of that nation where he was born; whereby it manifestly appeareth, that allegiance followeth the natural person of the king, and is not tied to the body politick respectively in every kingdom. There is one observation, not immediately to the present point, but so connected with our controversy, that it ought not to be overlooked. "For the matter of the great seal, the judges shewed that the seal was alterable by the king at his pleasure, and he might make one seal for both kingdoms, for seals, coin, and leagues, and of absolute prerogative of the king without parliament, nor restrained to any assent of the people." "But for further resolution of this point, how far the great seal doth command out of England, they made this distinction, that the great seal was current for remedials, which groweth on complaint of the subjects, and thereupon writs are addressed under the great seal of England, which writs are limited, their precinct to be within the places of the jurisdiction of the court, that was to give the redress of the wrong. And therefore writs are not to go into Ireland nor the Isles, nor Wales, nor the counties palatine, because the king's courts here have not power to hold plea of lands, nor things there. But the

great seal hath a power preceptory, to the person, which power extendeth to any place, where the person may be found." Ludlow's case, &c. who being at Rome, a commandment under the great seal was sent for him to return." So Bertie's case in queen Mary's time, and Inglefield's case in queen Elizabeth's, the privy seal went to command them to return into the realm, and for not coming their lands were seized," &c. But to return to the point: "And as to the objection," says the book, "that none can be born a natural subject of two kingdoms, they denied that absolutely, for although locally, he can be born but in one, yet effectually, the allegiance of the king extending to both, his birthright shall extend to both." And afterwards, "but that his kingly power extendeth to diverse nations and kingdoms, all owe him equal subjection, and are equally born to the benefit of his protection; and although he is to govern them by *their distinct laws*, yet any one of the people coming into the other, is to have the benefit of the laws, wheresoever he cometh; but living in one, or for his livelihood in one, he is not to be taxed in the other, because laws ordain taxes, impositions, and charges, as a discipline of subjection particularized to every particular nation." Another place where this distinction is to be found is in Foster's crown law, p. 184. "There have been writers, who have carried the notion of natural, perpetual, unalienable allegiance much farther than the subject of this discourse will lead me. They say, very truly, that it is due to the *person* of the king, &c." It is undoubtedly due to the person of the king; but in that respect natural allegiance differeth nothing from what we call local. For allegiance considered in every light is alike due to the person of the king; and is paid, and in the nature of things must be

constantly paid, to that prince, who for time being, is in the actual and full possession of the regal dignity."

Indeed allegiance to a sovereign lord, is nothing more than fealty to a subordinate lord, and in neither case, has any relation to, or connection with laws or parliaments, lords or commons. There was a reciprocal confidence between the lord and vassal. The lord was to protect the vassal in the enjoyment of his land. The vassal was to be faithful to his lord, and defend him against his enemies. This obligation on the part of the vassal, was his fealty, *fidelitas*. The oath of fealty, by the feodal law to be taken by the vassal or tenant, is nearly in the very words as the ancient oath of allegiance. But neither fealty, allegiance, or the oath of either implied any thing about laws, parliaments, lords or commons.

The fealty and allegiance of Americans then is undoubtedly due to the person of king George the third, whom God long preserve and prosper. It is due to him, in his natural person, as that natural person is intituled to the crown, the kingly office, the royal dignity of the realm of England. And it becomes due to his natural person, because he is intituled to that office. And because by the charters, and other express and implied contracts made between the Americans and the kings of England, they have bound themselves to fealty and allegiance to the natural person of that prince, who shall rightfully hold the kingly office in England, and no otherwise.

"With us in England, says Blackstone, v. 1, 367. it becoming a settled principle of tenure, that all lands in the kingdom are holden of the king as their sovereign and lord paramount, &c. the oath of allegiance was necessarily confined to the person of

the king alone. By an easy analogy, the term of allegiance was soon brought to signify all other engagements, which are due from subjects simply and merely territorial. And the oath of allegiance, as administered for upwards of six hundred years, contained a promise to be true and faithful to the king and his heirs, and truth and faith to bear of life and limb and terrene honor, and not to know, or hear of any ill or damages intended him, without defending him therefrom." But at the revolution, the terms of this oath being thought perhaps to favor too much the notion of non-resistance, the present form was introduced by the convention parliament, which is more general and indeterminate than the former, the subject promising "that he will be faithful, and bear true allegiance to only the king," without mentioning his heirs, or specifying the least wherein that allegiance consists.

Thus I think that all the authorities in law, coincide exactly with the observation which I have heretofore made upon the case of Wales, and shew that subjection to a king of England does not necessarily imply subjection to the crown of England; and that subjection to the crown of England, does not imply subjection to the parliament of England; for allegiance is due to the person of the king, and to that alone, in all three cases, that is, whether we are subject to his parliament and crown, as well as his person, as the people in England are, whether we are subject to his crown and person, without parliament, as the Welch were after the conquest of Lewellyn, and before the union, or as the Irish were after the conquest and before Poyning's law, or whether we are subject to his person alone, as the Scots were to the king of England, after the accession of James 1st. being not at all subject to the parliament or crown of

England.

We do not admit any binding authority in the decisions and adjudications of the court of king's bench or common pleas, or the court of chancery over America: but we quote them as the opinions of learned men. In these we find a distinction between a country conquered, and a country discovered. Conquest, they say, gives the crown an absolute power: discovery, only gives the subject a right to all the laws of England. They add, that all the laws of England are in force there. I confess I do not see the reason of this. There are several cases in books of law which may be properly thrown before the public. I am no more of a lawyer than Massachusettensis, but have taken his advice, and conversed with many lawyers upon our subject, some honest, some dishonest, some living, some dead, and am willing to lay before you what I have learned from all of them. In Salk. 411, the case of Blankard and Galdy. "In debt upon a bond, the defendant prayed oyer of the condition, and pleaded the statutes E. 6. against buying offices concerning the administration of justice; and averred that this bond was given for the purchase of the office of provost marshal in Jamaica, and that it concerned the administration of justice, and *that Jamaica is part of the revenue and possessions of the crown of England*. The plaintiff replied, that Jamaica is an island *beyond the seas*, which was conquered from the Indians and Spaniards in Queen Elizabeth's time, and the inhabitants are governed by their own laws, and not by the laws of England. The defendant rejoined, that before such conquest, they were governed by their own laws; but since that, by the laws of England. Shower argued for the plaintiff, that on a judgment in Jamaica, no writ of error lies here, but only an appeal to the council; *and as they*

are not represented in our parliament, so they are not bound by our statutes, unless specially named. Vid. And. 115. Pemberton contra argued, that, *by the conquest of a nation, its liberties, rights, and properties, are quite lost*; that by consequence their laws are lost too, for the law is but the rule and guard of the other; those that conquer cannot, by their victory, lose their laws, and become subject to others. Vid. Vaugh. 405. That error lies here upon a judgment in Jamaica, which could not be, if they were not under the same law. Et. per Holt, C. J. and Cur. 1st. In case of an uninhabited country, newly found out by English subjects, all laws in force in England are in force there; so it seemed to be agreed. 2. Jamaica being conquered, and not pleaded to be parcel of the kingdom of England, but part of the possessions and revenue of the crown of England; the laws of England did not take place there, until declared so by the conqueror, or his successors. The Isle of Man and Ireland are part of the *possessions* of the crown of England, yet retain their ancient laws, that in Davis, 36, it is not pretended that the custom of tanistry was determined by the conquest of Ireland, but by the new settlement made there after the conquest: that it was impossible the laws of this nation, by mere conquest, without more should take place, in a conquered country, because for a time, there must want officers, without which our laws can have no force; that if our law did take place, yet they, in Jamaica, having power to make new laws, our general laws may be altered by theirs in particulars; also they held that in case of an infidel country; their laws by conquest do not entirely cease, but only such as are against the law of God; and that in such cases where the laws are rejected or silent, the conquered country shall be governed according to the rule of

natural equity. Judgment, pro quer."

Upon this case I beg leave to make a few observations. 1. That Shower's reasoning, that we are not bound by statutes, because not represented in parliament, is universal, and therefore his exception, "unless specially named," although it is taken from analogy to the case of Ireland, by lord Coke and others, yet it is not taken from the common law, but is merely arbitrary and groundless, as applied to us: because, if the want of representation could be supplied, by "expressly naming" a country, the right of representation might be rendered null and nugatory. But of this, more another time.

2. That by the opinion of Holt, and the whole court, the laws of England, common and statute, are in force in a vacant country, discovered by Englishmen. But America was not a vacant country; it was full of inhabitants; our ancestors purchased the land; but if it had been vacant, his lordship has not shewn us any authority at common law, that the laws of England would have been in force there. On the contrary, by that law, it is clear they did not extend beyond seas, and therefore could not be binding there, any further than the free will of the discoverers should make them. The discoverers had a right by nature, to set up those laws, if they liked them, or any others, that pleased them better, provided they were not inconsistent with their allegiance to the king. 3. The court held that a country must be parcel of the kingdom of England, before the laws of England could take place there; which seems to be inconsistent with what is said before, because discovery of a vacant country does not make it parcel of the kingdom of England, which shews, that the court, when they said that all laws in *force* in

England, are in *force* in the discovered country, meant no more than that the discoverers had a right to all such laws, if they chose to adopt them. 4. The idea of the court, in this case, is exactly conformable to, if not taken from the case of Wales. They consider a conquered country as Edward 1st. and his successors did Wales, as by the conquest annexed to the crown, as an absolute property, possession, or revenue, and therefore to be disposed of at its will; not entitled to the laws of England, although bound to be governed by the king's will, in parliament or out of it, as he pleased. 5. The Isle of Man and Ireland, are considered like Wales, as conquered countries, and part of the possessions (by which they mean property or revenue) of the crown of England, yet have been allowed by the king's will to retain their ancient laws. 6. That the case of America differs totally from the case of Wales, Ireland, Man, or any other case, which is known at common law, or in English history. There is no one precedent in point, in any English records, and therefore it can be determined only by eternal reason, and the law of nature. But yet that the analogy of all these cases of Ireland, Wales, Man, Chester, Durham, Lancaster, &c. clearly concur with the dictates of reason and nature, that Americans are entitled to all the liberties of Englishmen, and that they are not bound by any acts of parliament whatever, by any law known in English records or history, excepting those for the regulation of trade, which they have consented to and acquiesced in. 7. To these let me add, that as the laws of England, and the authority of parliament were by common law confined to the realm, and within the four seas, so was the force of the great seal of England. Salk. 510. "The great seal of England is appropriated to England, and what is done under it

has relation to England, and to no other place." So that the king, by common law, had no authority to create peers or governments, or any thing out of the realm, by his great seal; and therefore our charters and commissions to governors, being under the great seal, gives us no more authority, nor binds us to any other duties, than if they had been given under the privy seal, or without any seal at all. Their binding force, both upon the crown and us, is wholly from compact and the law of nature.

There is another case in which the same sentiments are preserved; it is in 2. P. Williams, 75, memorandum 9th August, 1722. It was said by the master of the rolls to have been determined by the lords of the privy council, upon an appeal to the king in council from the foreign plantations. 1st. That if there be a new and uninhabited country, found out by English subjects, as the law is the birth right of every subject, so, wherever they go, they carry their laws with them, and therefore such new found country is to be governed by the laws of England; though after such country is inhabited by the English, acts of parliament made in England, without naming the foreign plantations, will not bind them; for which reason it has been determined that the statute of frauds and perjuries, which requires three witnesses, and that these should subscribe in the testators presence in the case of devise of land, does not bind Barbadoes, but that 2dly. Where the king of England conquers a country, it is a different consideration; for there the conqueror, by saving the lives of the people conquered, gains a right and property in such people! In consequence of which he may impose upon them what laws he pleases. But 3dly. Until such laws, given by the conquering prince, the laws and customs of the conquered

country shall hold place, unless where these are contrary to our religion, or enact any thing that is *malum in se*, or are silent; for in all such cases the laws of the conquering country shall prevail.

NOVANGLUS.

ADDRESSED

To the Inhabitants of the Colony of Massachusetts Bay,

April 3, 1775.

MY FRIENDS,

GIVE me leave now to descend from these general matters, to Massachusettensis. He says "Ireland, who has perhaps the greatest possible subordinate legislature, and sends no members to the British parliament, is bound by its acts when expressly named." But if we are to consider what ought to be, as well as what is, why should Ireland have the greatest possible subordinate legislature? Is Ireland more numerous and more important to what is called the British empire, than America? Subordinate as the Irish legislature is said to be, and a conquered country as undoubtedly it is, the parliament of Great

Britain, although they claim a power to bind Ireland by statutes, have never laid one farthing of tax upon it. They knew it would occasion resistance if they should. But the authority of parliament to bind Ireland at all, if it has any, is founded upon a different principle entirely from any that takes place in the case of America. It is founded on the consent and compact of the Irish by Poyning's law to be so governed, if it has any foundation at all: and this consent was given and compact made in consequence of a conquest.

In the reign of Henry 2d of England, there were five distinct sovereignties in Ireland; Munster, Leinster, Meath, Ulster and Connaught, besides several small tribes. As the prince of any one of these petty states took the lead in war, he seemed to act, for the time being, as monarch of the island. About the year 1172, Roderic O'Connor, king of Connaught, was advanced to this pre-eminence. Henry had long cast a wishful eye upon Ireland, and now partly to divert his subjects from the thoughts of Becket's murder, partly to appease the wrath of the pope for the same event, and partly to gratify his own ambition, he lays hold of a pretence, that the Irish had taken some natives of England and sold them for slaves, applies to the pope for license to invade that island. Adrian the 3d, an Englishman by birth, who was then pontiff, and very clearly convinced in his own mind, of his right to dispose of kingdoms and empires, was easily persuaded, by the prospect of Peter's pence, to act as emperor of the world, and make an addition to his ghostly jurisdiction of an island which, though converted to christianity, had never acknowledged any subjection to the see of Rome. He issued a bull, premising that Henry had ever shewn an anxious care to enlarge the church, and increase the saints on

earth and in heaven: that his design upon Ireland proceeded from the same pious motives: that his application to the holy see, was a sure earnest of success: that it was a point incontestible, that all christian kingdoms belonged to the patrimony of St. Peter: that it was his duty to sow among them the seeds of the gospel, which might fructify to their eternal salvation. He exhorts Henry to invade Ireland, exterminate the vices of the natives, and oblige them to pay yearly, from every house, a penny to the see of Rome; gives him full right and entire authority over the whole island; and commands all to obey him as their sovereign.

Macmorrough, a licentious scoundrel, who was king of Leinster, had been driven from his kingdom, for his tyranny, by his own subjects, in conjunction with Ororic, king of Meath, who made war upon him for committing a rape upon his queen, applied to Henry for assistance, to restore him, and promised to hold his kingdom in vassalage of the crown of England.

Henry accepted the offer and engaged in the enterprise. It is unnecessary to recapitulate all the intrigues of Henry, to divide the Irish kingdoms among themselves, and set one against another, which are as curious as those of Edward 1st. to divide the kingdom of Wales, and play Lewellyn's brothers against him, or as those of the ministry, and our junto, to divide the American colonies, who have more sense than to be divided. It is sufficient to say, that Henry's expeditions terminated altogether by means of those divisions among the Irish, in the total conquest of Ireland, and its annexation forever to the English crown. By the annexation of all Ireland to the English crown, I mean that all the princes and petty sovereigns in Ireland agreed to become vassals of the

English crown. But what was the consequence of this? The same consequence was drawn, by the kings of England in this case, as had been drawn in the case of Wales after the conquest of Lewellyn, viz: that Ireland was become part of the *property*, *possession* or *revenue* of the English crown, and that its authority over it was absolute and without controul.

That matter must be traced from step to step. The first monument we find in English records, concerning Ireland, is a mere *rescriptum principis*, intituled *statutum Hiberniae de coheredibus*, 14, Henry 3d, A. D. 1229. In the old abridgment Tit. Homage, this is said not to be a statute. Vid. Ruffhead's statutes at large, V. 1. 15. Mr. Cay very properly observes, that it is not an act of parliament, Vid. Barrington's observations on the statutes, p. 34. In this rescript, the king informs certain milites, (adventurers probably in the conquest of Ireland, or their descendants) who had doubts how lands holden by knights' service descending to co-partners, within age, should be divided, what is the law and custom in England with regard to this.

But the record itself shews it to be a royal rescript only. *Rex dilecto et fideli suo gerardo fil'mauricii justii' suo Hiberniae salutem. Quia tales Milites de partibus Hiberniae nuper, ad nos accedentes nobis ostenderunt, quod, &c. Et a nobis petierunt inde certiorari qualiter in regno nostro Angliae in casu consimili hactenus usitatum sit, &c.* He then goes on and certifies what the law in England was, and then concludes, *Et Ideo vobis mandamus, quod predictas consuetudines in hoc casu, quas in regno nostro Angliae habemus, ut predictum est, in terra nostra Hiberniae proclamari et firmiter teneri, fac, &c.*

Here again we find the king conducting, exactly as Edward 1st. did in Wales, after the conquest of Wales. Ireland had now been annexed to the English crown many years, yet parliament was not allowed to have obtained any jurisdiction over it, and Henry ordained laws for it by his sole and absolute authority, as Edward 1st. did by the statute of Wales. Another incontestible proof that annexing a country to the crown of England, does not annex it to the realm, or subject it to parliament. But we shall find innumerable proofs of this.

Another incontestible proof of this, is the *ordinatio pro statu Hiberniae* made 17 Edward 1, 1288.

This is an ordinance made by the king, by advice of his council, for the government of Ireland. "Edward, by the grace of God, king of England, lord of Ireland, &c. to all those who shall see or hear these letters, doth send salutation." He then goes on and ordains many regulations, among which the seventh chapter is "that none of our officers shall receive an original writ pleadable at the common law, but such as be sealed by the great seal of Ireland," &c. This ordinance concludes, "In witness whereof we have caused these our letters patent to be made." Dated at Nottingham 24th Nov. 17th year of our reign.

This law, if it was passed in parliament, was never considered to have any more binding force, than if it had been made only by the king. By Poyning's law indeed in the reign of Henry 7th. all precedent English statutes are made to bind in Ireland, and this among the rest; but until Poyning's law, it had no validity as an act of parliament, and was never executed, but in the English pale, for, notwithstanding all that is said of the total compact

by Henry 2d.; yet it did not extend much beyond the neighbourhood of Dublin, and the conqueror could not enforce his laws and regulations much further.

There is a note on the roll of 21 Edward 1st. in these words: "*Et memorandum quod istud statutum, de verbo ad verbum, missum fuit in Hiberniam, teste rege apud Kenyngton 14 die, Augusti, anno regni sui vicesimo septimo: et mandatum fuit Johanni Wogan justiciario Hiberniae, quod praedictum statutum, per Hiberniam, in locis quibus expedire viderit legi, et publice proclamari ac firmiter teneri faciat.*

"This note most fully proves, that the king, by his sole authority, could introduce any English law; and will that authority be lessened by the concurrence of the two houses of parliament? There is also an order of Charles 1st. in the third year of his reign, to the treasurers and chancellors of the exchequer, both of England and Ireland, by which they are directed to increase the duties upon Irish exports; which shews that it was then imagined, that the king would tax Ireland by his prerogative, without the intervention of parliament." Vid. obs. on the statutes, p. 127.

Another instance to shew, that the king by his sole authority, whenever he pleased, made regulations for the government of Ireland, notwithstanding it was annexed and subject to the crown of England, is the *ordinatio facta pro statu terrae Hiberniae*, in the 31 Edward 1. in the appendix to Ruffhead's statutes, p. 37. This is an extensive code of laws, made for the government of the Irish church and state, by the king alone, without lords or commons. The king's "*volumus et firmiter precipimus*," governs and establishes all, and among other things, he introduces by the 18th chapter, the English laws for the regimen of persons

of English extract settled in Ireland.

The next appearance of Ireland, in the statutes of England, is in the 34 Edward 3d, c. 17. This is no more than a concession of the king to his lords and commons of England, in these words. "*Item*, it is accorded that all the merchants, as well aliens as denizens, may come into Ireland, with their merchandizes, and from thence freely return with their merchandizes and victuals, without fine or ransom to be taken of them, saving always to the king, his ancient customs and other duties." And by chapter 18, "*Item*, that the people of England, as well religious as other, which have their heritage and possessions in Ireland, may bring their corn, beasts and victuals to the said land of Ireland, and from thence re-carry their goods and merchandizes into England freely without impeachment, paying their customs and devoirs to the king."

All this is no more than an agreement between the king and his English subjects, lords and commons, that there should be a free trade between the two islands, and that one of them should be free for strangers. But it is no colour of proof that the king could not govern Ireland without his English lords and commons.

The 1. Henry 5th. c. 8. All Irishmen and Irish clerks, beggars, shall depart this realm before the 1st day of November, except graduates, sergeants, &c. is explained by 1. Henry 6th. c. 3. which shews what sort of Irishmen only may come to dwell in England. It enacts that all persons, born in Ireland, shall depart out of the realm of England, except a few; and that Irishmen shall not be principals of any hall, and that Irishmen shall bring testimonials from the

lieutenant, or justice of Ireland, that they are of the king's obeisance. By the 8th, Henry 6th. c. 8. "Irishmen resorting into the realm of England, shall put in surety for their goodabearing."

Thus I have cursorily mentioned every law made by the king of England, whether in parliament or out of it, for the government of Ireland, from the conquest of it by Henry 2d. in 1172, down to the reign of Henry 7th. when an express contract was made between the two kingdoms, that Ireland should for the future be bound by English acts of parliament, in which it should be specially named. This contract was made in 1495; so that upon the whole it appears, beyond dispute, that for more than 300 years, though a conquered country, and annexed to the crown of England; yet was so far from being annexed to, or parcel of the realm, that the king's power was absolute there, and he might govern it without his English parliament, whose advice concerning it, he was under no obligation to ask or pursue.

The contract I here alluded to, is what is called Poyning's law; the history of which is briefly this. Ireland revolted from England, or rather adhered to the partizans of the house of York; and Sir Edward Poyning was sent over about the year 1495, by king Henry 7th. with very extensive powers, *over the civil as well as military administration*. On his arrival he made severe inquisition about the disaffected, and in particular attacked the earls of Desmond and Kildare. The first stood upon the defensive, and eluded the power of the deputy: but Kildare was sent prisoner to England: *not to be executed, it seems, nor to be tried upon the statute of Henry 8th*, but to be dismissed, as he actually was, to his own country, with marks of

the king's esteem and favor; Henry judging that, at such a juncture, he should gain more by clemency and indulgence, than by rigor and severity. In this opinion he sent a commissioner to Ireland, with a formal amnesty, in favor of Desmond and all his adherents, whom the tools of his ministers did not fail to call traitors and rebels, with as good a grace and as much benevolence, as Massachusettensis discovers.

Let me stop here and enquire, whether lord North has more wisdom than Henry 7th. or whether he took the hint from the history of Poyning, of sending Gen. Gage, with his civil and military powers? If he did, he certainly did not imitate Henry, in his blustering menaces, against certain "ringleaders and forerunners."

While Poyning resided in Ireland, he called a parliament, which is famous in history for the acts which it passed, in favour of England, and Englishmen settled in Ireland. By these, which are still called Poyning's laws, all the former laws of England were made to be of force in Ireland, and no bill can be introduced into the Irish parliament, unless it previously receive the sanction of the English privy council; and by a construction, if not by the express words of these laws, Ireland is still said to be bound by English statutes, in which it is specially named. Here then let Massachusettensis pause, and observe the original of the notion that countries might be bound by acts of parliament, if "specially named," though without the realm. Let him observe, too, that this notion is grounded entirely on the voluntary act, the free consent of the Irish nation, and an act of an Irish parliament, called Poyning's law. Let me ask him, has any colony in America ever

made a Poyning's act? Have they ever consented to be bound by acts of parliament, if specially named? Have they ever acquiesced in, or implicitly consented to any acts of parliament, but such as are *bona fide* made for the regulation of trade? This idea of binding countries without the realm, "by specially naming" them, is not an idea taken from the common law. There was no such principle, rule, or maxim, in that law; it must be by statute law, then, or none. In the case of Wales and Ireland, it was introduced by solemn compact, and established by statutes, to which the Welch and Irish were parties, and expressly consented. But in the case of America there is no such statute, and therefore Americans are bound by statutes, in which they are "named," no more than by those in which they are not.

The principle upon which Ireland is bound by English statutes, in which it is named, is this, that being a conquered country, and subject to the mere will of the king, it voluntarily consented to be so bound. This appears in part already, and more fully in 1. Blackstone 99, 100, &c. who tells us, "that Ireland is a distinct, though a dependant, subordinate kingdom." But how came it dependant and subordinate? He tells us "that king John, in the twelfth year of his reign, after the conquest, went into Ireland, carried over with him many able sages of the law; and there, by his letters patent, in right of the dominion of conquest, is said to have ordained and established, that Ireland should be governed by the laws of England; which letters patent Sir Edward Coke apprehends to have been there confirmed in parliament." By the same rule that no laws made in England, between king John's time and Poyning's law, were then binding in Ireland, it follows that no acts of the English parliament, made since the tenth

of Henry 7th. do now bind the people of Ireland, unless specially named, or included under general words. And on the other hand, it is equally clear, that where Ireland is particularly named, or is included under general words, they are bound by such acts of parliament; for it follows, from the very nature and constitution of a dependent state; dependance being very little else, but an obligation to conform to the will or law of that superior person, or state, upon which the inferior depends. The original and true ground of this superiority, in the present case, is what we usually call, though somewhat improperly, "the right of conquest;" a right allowed by the law of nations, if not by that of nature; but which in reason and civil policy can mean nothing more, than that, in order to put an end to hostilities, "a compact is either expressly or tacitly made between the conqueror and conquered, that if they will acknowledge the victor for their master, he will treat them for the future as subjects and not as enemies."

These are the principles upon which the dependance and subordination of Ireland are founded. Whether they are just or not, is not necessary for us to enquire. The Irish nation have never been entirely convinced of their justice; have been ever discontented with them; and ripe and ready to dispute them. Their reasonings have ever been answered, by the *ratio ultima and penultima* of the tories, and it requires to this hour no less than a standing army of 12,000 men to confute them; as little as the British parliament exercises the right, which it claims of binding them by statutes, and although it never once attempted or presumed to tax them, and although they are so greatly inferior to Britain in power, and so near in situation.

But thus much is certain, that none of these principles take place, in the case of America. She never was conquered by Britain. She never consented to be a state dependant upon, or subordinate to the British parliament, excepting only in the regulation of her commerce; and therefore the reasonings of British writers, upon the case of Ireland, are not applicable to the case of the colonies, any more than those upon the case of Wales.

Thus have I rambled after Massachusettensis through Wales and Ireland, but have not reached my journey's end. I have yet to travel through Jersey, Guernsey, and I know not where. At present I shall conclude with one observation. In the history of Ireland and Wales, though undoubtedly conquered countries, and under the very eye and arm of England, the extreme difficulty, the utter impracticability of governing a people, who have any sense, spirit, or love of liberty, without incorporating them into the state, or allowing them in some other way, equal privileges may be clearly seen. Wales was forever revolting for a thousand years, until it obtained that mighty blessing. Ireland has been frequently revolting, although the most essential power of a supreme legislature, that of imposing taxes, has never been exercised over them, and it cannot now be kept under, but by force; and it would revolt forever, if parliament should tax them. What kind of an opinion, then, must the ministry entertain of America? When her distance is so great, her territory so extensive, her commerce so important, not a conquered country, but dearly purchased and defended? When her trade is so essential to the navy, the commerce, the revenue, the very existence of Great Britain, as an independent state? They must think America inhabited by three millions of fools

and cowards.

NOVANGLUS.

ADDRESSED

To the Inhabitants of the Colony of Massachusetts Bay,

April 10, 1775.

MY FRIENDS,

THE cases of Wales and Ireland are not yet exhausted. They afford such irrefragable proofs, that there is a distinction between the crown and realm, and that a country may be annexed and subject to the former, and not the latter, that they ought to be thoroughly studied and understood.

The more these cases, as well as those of Chester, Durham, Jersey, Guernsey, Calais, Gascoine, Guienne, &c. are examined, the more clearly it will appear, that there is no precedent in English records; no rule of common law; no provision in the English constitution; no policy in the English or British government; for the case of the colonies; and

therefore that we derive our laws and government solely from our own compacts with Britain and her kings, and from the great legislature of the universe.

We ought to be cautious of the inaccuracies of the greatest men, for these are apt to lead us astray. Lord Coke, in 7 Rep. 21, 6, says, "Wales was sometimes a kingdom, as it appeareth by 19 Henry 6th. fol. 6, and by the act of parliament of 2 Henry 5th. cap. 6, but while it was a kingdom, the same was holden, and within the fee of the king of England: and this appeareth by our books, Fleta, lib. 1. Edward 3d. 14, 8. Ed. 3d. 59, 13, Edward 3d. Tit. Jurisdict. 10. Henry 4, 6. Plow. com. 368. And in this respect, in divers ancient charters, kings of old time styled themselves in several manners, as king Edgar, Britanniae Basileus, Etheldrus, Totius Albionis Dei providentia Imperator, Edredus, magnae Britanniae Monarcha, which, among many others of like nature I have seen. But by the statute of 12 of Edward 1st. Wales was united and incorporated into England, and made parcel of England in possession; and therefore it is ruled in 7 Henry 4th. fol. 14. That no protection doth lie, *quia moratur in Wallia*, because Wales is within the realm of England. And where it is recited in the act of 27 Henry 8th. *that Wales was ever parcel of the realm of England*, it is true in this sense, viz: that before 12 Edward 1st. it was parcel in tenure, and since *it is parcel of the body of the realm*. And whosoever is born within the fee of the king of England, though it be in another kingdom, is a natural born subject, and capable and inheritable of lands in England, as it appeareth in Plow. com. 126. And therefore those that were born in Wales before 12 Edward 1st. while it was only holden of England, were capable and inheritable of lands in England."

Where my lord Coke or any other sage, shews us the ground on which his opinion stands, we can judge for ourselves, whether the ground is good, and his opinion just. And if we examine by this rule, we shall find in the foregoing words, several palpable inaccuracies of expression; 1, by the 12 E. 1. (which is the *Statutum Walliæ* quoted by me before) it is certain "that Wales was not united and incorporated into England, and made parcel of England." It was annexed and united to the crown of England only. It was done by the king's sole and absolute authority; not by an act of parliament, but by a mere *constitutio imperatoria*, and neither E. 1. nor any of his successors, ever would relinquish the right of ruling it, by mere will and discretion until the reign of James 1.—2. It is not recited in the 27 H. 8, that Wales was ever parcel of the realm of England. The words of that statute are, "incorporated, annexed, united and subject to and under the imperial crown of this realm," is a decisive proof that a country may be annexed to the one, without being united with the other. And this appears fully in lord Coke himself, 7 rep. 22, b. "Ireland originally came to the kings of England by conquest, but who was the first conquerer thereof hath been a question. I have seen a charter made by king Edgar, in these words, *Ego Edgarus Anglorum Basileus, omnium quæ insularum oceani, quæ Britanniam circumjacent, imperator et dominus, gratias ago ipsi Deo omnipotenti regi meo, qui meum imperium sic ampliavit et exaltavit super regnum patrum meorum*, &c. *Mihi concessit propitia divinitas, cum anglorum imperis omnia regna insularum oceani*, &c. *Cum suis ferocibus regibus usque Norvegiam, maximamque partem Hiberniæ, cum sua nobilissima civitate de Dublina, Anglorum regno subjugare, quapropter et ego Christi gloriam et laudem in regno meo*

exaltare, et ejus servitium amplificare devotus disposui, &c. Yet for that it was wholly conquered in the reign of H. 2. The honour of the conquest of Ireland is attributed to him. That Ireland is a dominion separate and divided from England it is evident by our books, 20 H. 6, 8. Sir John Pilkington's case, 32 H. 6, 26. 20 Eliz. Dyer 360. Plow. com. 360. and 2, r. 3. 12. *Hibernia habet parliamentum, et faciunt leges, et statuta nostra non ligant eos quia non mittunt milites ad parliamentum*, (which is to be understood unless they be specially named) *sed personæ eorum sunt, subjecti regis, sicut inhabitantes in Calesia, Gasconia et Guigan*. Wherein it is to be observed, that the Irishman (as to his subjection) is compared to men born in Calice, Gascoin and Guian. Concerning their laws, *Ex rotulis petentium, de anno* 11. Regis 8. 3, there is a charter which that king made beginning in these words: *Rex Baronibus, Militibus et omnibus libere tenenibus L. salutem, satis, ut credimus vestra audivit discretio, quod quando bonæ memoriæ Johannes quondam rex Angliæ, pater noster venit in Hiberniam ipse duxit secum viros discretos et legis peritos, quorum communi consilio et adjunctorum Hiberniansium, statuit et præcepit leges Anglicanas in Hibernia, ita quod easdem inscripturas redactas reliquit sub sigillo suo ad saccarium Dublin*. So as now the laws of England became the proper laws of Ireland; and therefore because they have parliaments holden there, whereat they have made diverse particular laws, concerning that dominion, as it appeareth in 20 Hen. 6th, 8th. and 20 Eliz. Dyer, 360, and for that they retain unto this day, diverse of their ancient customs, the book in 20 Henry 6th. 8th. holdeth that Ireland is governed by laws and customs, separate and diverse from the laws of England. A voyage royal may be made into Ireland. Vid. 11. Henry 4th. 7th. and 7 Edward 4th. 27.

which proveth it a distinct dominion. And in anno 33 Elizabeth, it was resolved by all the judges of England, in the case of Orurke, an Irishman, who had committed high treason in Ireland, that he, by the statute of 33. Henry 8th. c. 23, might be indicted, arraigned, and tried for the same in England, according to the purview of that statute; the words of which statute be, that all treasons, &c. committed by any person out of the realm of England, shall be from henceforth enquired of, &c. And they all resolved, (as afterwards they did also in Sir John Perrot's case) that Ireland was out of the realm of England, and that treasons committed there were to be tried within England, by that statute. In the statute of 4 Henry 7th. c. 24 of fines, provision is made for them that be out of this land, and it is holden in Plow. com. in Stowell's case 375, that he that is in Ireland is out of this land, and consequently within that proviso. Might not, then, the like plea be devised, as well against any person born in Ireland, as (this is against Calvin a *Postnatus*) in Scotland? For the Irishman is born *extra ligeantia regis, regni sui Angliae*, &c. which be *verba operativa* in the plea. But all men know, that they are natural born subjects, and capable of, and inheritable to lands in England."

I have been at the pains of transcribing this long passage for the sake of a variety of important observations that may be made upon it. 1. That exuberance of proof that is in it, both that Ireland is annexed to the crown, and that it is not annexed to the realm of England. 2. That the reasoning in the year book, that Ireland has a parliament, and makes laws, and our statutes do not bind them, because they do not send knights to parliament, is universal, and concludes against these statutes binding, in which Ireland is specially named, as much as against

these in which it is not, and therefore lord Coke's parenthesis, (which is to be understood unless they be specially named) is wholly arbitrary and groundless, unless it goes upon the supposition, that the king is absolute in Ireland, it being a conquered country, and so has power to bind it at his pleasure, by an act of parliament, or by an edict: or unless it goes upon the supposition of Blackstone, that there had been an express agreement and consent of the Irish nation to be bound by acts of the English parliament; and in either case it is not applicable even by analogy to America, because that is not a conquered country, and most certainly never consented to be bound by all acts of parliament, in which it should be named. 3. That the instance, request and consent of the Irish is stated, as a ground upon which king John and his discreet law-sages, first established the laws of England in Ireland. 4. The resolution of the judges in the cases of Orurke and Perrot, is express that Ireland was without the realm of England, and the late resolutions of both houses of parliament, and the late opinion of the judges, that Americans may be sent to England upon the same statute to be tried for treason, is also express that America is out of the realm of England. So that we see what is to become of us, my friends. When they want to get our money by taxing us, our privileges by annihilating our charters, and to screen those from punishment who shall murder us at their command, then we are told that we are within the realm; but when they want to draw, hang, and quarter us, for honestly defending those liberties which God and compact have given and secured to us, oh, then, we are clearly out of the realm. 5. In Stowell's case, it is resolved that Ireland is out of the land, that is the land of England. The consequence is,

that it was out of the reach and extent of the law of the land, that is the common law. America surely is still further removed from that land; and therefore is without the jurisdiction of that law which is called the law of the land in England. I think it must appear by this time, that America is not parcel of the realm, state, kingdom, government, empire, or land of England, or Great Britain, in any sense, which can make it subject universally to the supreme legislature of that island.

But for the sake of curiosity, and for the purpose of shewing that the consent even of a conquered people has always been carefully conciliated, I beg leave to look over lord Coke's 4. Inst. p. 12. "After king Henry 2d." says he, "had conquered Ireland, he fitted and transcribed this modus, meaning the ancient treatise called *modus tenendi parliamentum*, which was rehearsed and declared before the conqueror at the time of the conquest, and by him approved for England, into Ireland, in a parchment roll, for the holding of parliaments there, which no doubt H. 2. did by advice of his judges, &c.—This *modus*, &c. was anno 6. H. 4. in the custody of sir Christopher Preston, which roll H. 4. in the same year, *De assensu Johannis Talbot Chevalier*, his lieutenant there, and of his council of Ireland, exemplified, &c."

Here we see the original of a parliament in Ireland, which is assigned as the cause or reason why Ireland is a distant kingdom from England: and in the same, 4. inst. 349. we find more evidence that all this was done at the instance and request of the people in Ireland. Lord Coke says, "H 2. the father of K. John, did ordain and command, at the instance of the Irish, that such laws as he had in England, should be of force and observed in Ireland. Hereby Ireland, being

of itself a distant dominion, and no part of the kingdom of England, (as it directly appeareth by many authorities in Calvin's case) was to have parliaments holden there, as England, &c." See the record as quoted by lord Coke in the same page, which shews that even this establishment of English laws, was made *De communi omnium de Hiberniæ consensu*.

This whole chapter is well worth attending to, because the records quoted in it shew how careful the ancients were to obtain the consent of the governed to all laws, though a conquered people, and the king absolute. Very unlike the minister of our æra, who is for pulling down and building up the most sacred establishments of laws and government, without the least regard to the consent or good will of Americans. There is one observation more of lord Coke that deserves particular notice. "Sometimes the king of England called his nobles of Ireland to come to his parliament of England, &c. and by special words the parliament of England may bind the subjects of Ireland," and cites the record 8. E. 2. and subjoins "an excellent precedent to be followed, whensoever any act of parliament shall be made in England, concerning the state of Ireland, &c." By this lord Coke seems to intimate an opinion, that representatives had been and ought to be called from Ireland to the parliament of England, whenever it undertook to govern it by statutes, in which it should be specially named.

After all, I believe there is no evidence of any express contract of the Irish nation to be governed by the English parliament, and very little of an implied one; that the notion of binding it by acts in which it is expressly named is merely arbitrary. And that this

nation which has ever had many and great virtues, has been most grievously oppressed: and it is to this day so greatly injured and oppressed, that I wonder American committees of correspondence and congresses, have not attended more to it than they have. Perhaps in some future time they may. But I am running beyond my line.

We must now turn to Burrows's reports, vol. 2. 834. Rex. vs. Cowle. Lord Mansfield has many observations upon the case of Wales, which ought not to be overlooked. Page 850, he says, "Edward 1st. conceived the great design of annexing all other parts of the island of Great Britain to the realm of England. The better to effectuate his idea, as time should offer occasion; he mentioned, 'that all parts thereof, not in his own hands or possession, were holden of his crown.' The consequence of this doctrine was, that, by the feudal law, supreme jurisdiction resulted to him, in right of his crown, as sovereign lord, in many cases, which he might lay hold of; and when the said territories should come into his hands and possession, they would come back as parcel of the realm of England, from which (by fiction of law at least) they had been originally severed. This doctrine was literally true as to the counties palatine of Chester and Durham. But (no matter upon what foundation) he maintained that the principality of Wales was holden of the imperial crown of England: he treated the prince of Wales as a rebellious vassal; subdued him; and took possession of the principality. Whereupon, on the 4th of December, in the 9th year of his reign, he issued a commission to enquire '*per quas leges et per quas consuetudines, antecessores nostri reges regni consueverant principam Walliæ et barones Wallenses Walliæ et pares suos et alios in priores et eorum pares,*

&c.' If the principality was feudatory, the conclusion necessarily followed, that it was under the government of the king's laws, and the king's courts, in cases proper for them to interpose; though (like counties palatine) they had peculiar laws and customs, *jura regalia*, and complete jurisdiction at home." There was a writ at the same time issued to all his officers in Wales, to give information to the commissioners: and there were 14 interrogatories specifying the points to be enquired into. The statute of Rutland 12. E. 1. refers to this inquiry. By that statute he does not annex Wales to England, but recites it as a consequence of its coming into his hands. "*Divina providentia terram Walliæ, prius nobis jure feodali subjectam, jam in proprietatis nostræ dominium convertit, et coronæ regni Angliæ, tanquam partem corporis ejusdem annexuit, et univit.*" The 27. H. 8. c. 26. adheres to the same plan, and recites "that Wales ever hath been incorporated, annexed, united and subject to, and under the imperial crown of this realm, as a very member, and joint of the same." Edward 1. having succeeded as to Wales, maintained likewise that Scotland was holden of the crown of England. This opinion of the court was delivered by lord Mansfield in the year 1759. In conformity to the *system* contained in these words, my lord Mansfield, and my lord North, together with their little friends Bernard and Hutchinson, have "conceived the great design of annexing" all North America "to the realm of England," and "the better to effectuate this idea, they all maintain, that North America is holden of the crown."

And, no matter upon what foundation, they all maintained that America is dependent on the imperial crown and parliament of Great Britain: and they are all very eagerly desirous of treating the

Americans as rebellious vassals, to subdue them and take possession of their country. And when they do, no doubt America will come back as parcel of the realm of England, from which, by fiction of law at least, or by virtual representation, or by some other dream of a shadow of a shade, they had been originally severed.

But these noblemen and ignoblemen ought to have considered, that Americans understand the laws and the politicks as well as themselves, and that there are 600,000 men in it, between 16 and 60 years of age; and therefore it will be very difficult to chicane them out of their liberties by "fictions of law," and "no matter upon what foundation."

Methinks I hear his lordship upon this occasion, in a soliloquy somewhat like this. "We are now in the midst of a war, which has been conducted with unexampled success and glory. We have conquered a great part, and shall soon complete the conquest of the French power in America. His majesty is near 70 years of age, and must soon yield to nature. The amiable, virtuous and promising successor, educated under the care of my nearest friends, will be influenced by our advice. We must bring the war to a conclusion, for we have not the martial spirit and abilities of the great commoner: but we shall be obliged to leave upon the nation an immense debt. How shall we manage that? Why, I have seen letters from America, proposing that parliament should bring America to a closer dependence upon it, and representing that if it does not, she will fall a prey to some foreign power, or set up for herself. These hints may be improved, and a vast revenue drawn from that country and the East Indies, or at least the people here may be flattered and quieted with the

hopes of it. It is the duty of a judge to declare law, but under this pretence, many we know have given law or made law, and none in all the records of Westminster hall more than of late. Enough has been already made, if it is wisely improved by others, to overturn this constitution. Upon this occasion I will accommodate my expressions, to such a design upon America and Asia, and will so accommodate both law and fact, that they may hereafter be improved to admirable effect in promoting our design." This is all romance, no doubt, but it has as good a moral as most romances. For 1st. It is an utter mistake that Ed. 1st. conceived the great design of annexing all to England, as one state, under one legislature. He conceived the design of annexing Wales, &c. to his crown. He did not pretend that it was before subject to the crown, but to him. "*Nobis jure feodali*" are his words. And when he annexes it to his crown, he does it by an edict of his own, not an act of parliament: and he never did in his whole life allow, that his parliament, that is his lords and commons, had any authority over it, or that he was obliged to take or ask their advice, in any one instance, concerning the management of it, nor did any of his successors for centuries. It was not Ed. 1. but Henry 7. who first conceived the great design of annexing it to the realm, and by him and H. 8. it was done, in part, but never completed, until Jac. 1. There is a sense indeed, in which annexing a territory to the crown, is annexing it to the realm, as putting a crown upon a man's head, is putting it on the man, but it does not make it a part of the man. 2d. His lordship mentions the statute of Rutland; but this was not an act of parliament, and therefore could not annex Wales to the realm, if the king had intended it, for it never was in the power of the king alone to annex a

country to the realm. This cannot be done, but by act of parliament. As to Edward's treating the prince of Wales as a "rebellious vassal," this was arbitrary, and is spoken of by all historians as an infamous piece of tyranny.

Ed. 1. and H. 8. both considered Wales, as the property and revenue of the crown, not as a part of the realm, and the expressions, "*coronæ regni Angliæ, tanquam partem corporis ejusdem*," signified "as part of the same body," that is of the same "crown," not "realm" or "kingdom"; and the expressions in 27 H. 8. under the imperial crown of this realm, as a very member "and joint of the same," mean, as a member and joint of the "imperial crown," not of the realm. For the whole history of the principality, the acts of kings, parliaments, and people shew, that Wales never was intituled by this annexation to the laws of England, nor bound to obey them. The case of Ireland is enough to prove that the crown and realm are not the same. For Ireland is certainly annexed to the crown of England, and it certainly is not annexed to the realm.

There is one paragraph in the foregoing words of lord Mansfield, which was quoted by his admirer governor Hutchinson in his dispute with the house, with a profound compliment. "He did not know a greater authority," &c. But let the authority be as great as it will, the doctrine will not bear the test.

"If the principality was feudatory, the conclusion necessarily follows, that it was under the government of the king's laws." Ireland is feudatory to the crown of England, but would not be subject to the king's English laws, without its consent and compact. An estate may be feudatory to a lord, a country may be

feudatory to a sovereign lord, upon all possible variety of conditions; it may be only to render homage; it may be to render a rent; it may be to pay a tribute; if his lordship by feudatory means, the original notion of feuds, it is true that the king the general imperator, was absolute, and the tenant held his estate only at will, and the subject not only his estate but his person and life at his will. But this notion of feuds had been relaxed in an infinite variety of degrees, in some the estate is held at will, in others for life, in others for years, in others forever, to heirs, &c. in some to be governed by the prince alone, in some by princes and nobles, and in some by prince, nobles and commons, &c. So that being feudatory, by no means proves that English lords and commons have any share in the government over us. As to counties palatine; these were not only holden of the king and crown, but were exerted by express acts of parliament, and therefore were never exempted from the authority of parliament. The same parliament, which erected the county palatine, and gave it its *jura regalia*, and compleat jurisdiction, might unmake it, and take away those regalia and jurisdiction. But American governments and constitutions were never erected by parliament, their *regalia* and jurisdiction were not given by parliament, and therefore parliament have no authority to take them away.

But if the colonies are feudatory to the kings of England, and subject to the government of the king's laws, it is only to such laws as are made in their general assemblies, their provincial legislatures.

NOVANGLUS.

ADDRESSED

To the Inhabitants of the Colony of Massachusetts Bay,

April 17, 1775.

MY FRIENDS,

WE now come to Jersey and Guernsey, which Massachusettensis says, "are no part of the realm of England, nor are they represented in parliament, but are subject to its authority." A little knowledge of this subject will do us no harm; and as soon as we shall acquire it, we shall be satisfied how these islands came to be subject to the authority of parliament. It is either upon the principle that the king is absolute there, and has a right to make laws for them by his mere will; and therefore may express his will by an act of parliament, or an edict at his pleasure: or it is an usurpation. If it is an usurpation, it ought not to be a precedent for the colonies, but it ought to be reformed, and they ought to be incorporated into the realm, by act of parliament, and their own act. Their situation is no objection to this. Ours is an insurmountable obstacle.

Thus we see that in every instance which can be found, the observation proves to be true, that by the common law, the laws of England, and the authority of parliament, and the limits of the realm were confined within seas. That the kings of England had

frequently foreign dominions, some by conquest, some by marriage, and some by descent. But in all those cases the kings were either absolute in those dominions, or bound to govern them according to their own respective laws, and by their own legislative and executive councils. That the laws of England did not extend there, and the English parliament pretended no jurisdiction there, nor claimed any right to controul the king in his government of those dominions. And from this extensive survey of all the foregoing cases, there results a confirmation of what has been so often said, that there is no provision in the common law, in English precedents, in the English government or constitution, made for the case of the colonies. It is not a conquered, but a discovered country. It came not to the king by descent, but was explored by the settlers. It came not by marriage to the king, but was purchased by the settlers of the savages. It was not granted by the king of his grace, but was dearly, very dearly earned by the planters, in the labour, blood, and treasure which they expended to subdue it to cultivation. It stands upon no grounds, then, of law or policy, but what are found in the law of nature, and their express contracts in their charters, and their implied contracts in the commissions to governors and terms of settlement.

The cases of Chester and Durham, counties palantine within the realm, shall conclude this fatiguing ramble. Chester was an earldom and a county; and in the 21st year of king Richard 2d. A. D. 1397, it was, by an act of parliament, erected into a principality, and several castles and towns, were annexed to it, saving to the king the rights of his crown. This was a county palatine, and had *jura regalia*, before this

erection of it into a principality. But the statute which made it a principality, was again repealed by 1. Henry 4th. c. 3, and in 1399, by the 1. Henry 4th. c. 18. Grievous complaints were made to the king, in parliament, of murders, man-slaughters, robberies, batteries, riots, &c. done by people of the county of Chester, in divers counties of England. For remedy of which it is enacted, that if any person of the county of Chester commit any murder or felony in any place out of that county, process shall be made against him by the common law, till the exigent in the county where such murder or felony was done: and if he flee into the county of Chester, and be outlawed, and put in exigent for such murder or felony, the same outlawry or exigent, shall be certified to the officers and ministers of the same county of Chester, and the felon shall be taken, his lands and goods within that county shall be seized as forfeit into the hands of the prince, or of him that shall be lord of the same county of Chester, and the king shall have the year and day and waste; and the other lands and goods of such felons, out of said county, shall remain wholly to the king, &c. as forfeit. And a similar provision in case of battery or trespass, &c.

Considering the great seal of England, and the process of the king's contracts did not run into Chester, it was natural that malefactors should take refuge there, and escape punishment, and therefore a statute like this was of indispensible necessity, and afterwards, in 1535, another statute was made, 27. Henry c. 5th. for the making of justices of peace, within Chester, &c. It recites, "the king, considering the manifold robberies, murders, thefts, trespasses, riots, routs, embraceries, maintenances, oppressions, ruptures of his peace, &c. which have been daily done within his county palatine of Chester, &c. by

reason that common justice hath not been indifferently ministered there, like and in form as it is in other places of this his realm, by reason whereof the said criminals have remained unpunished; for redress whereof, and to the intent that one order of law should be had, the king is empowered to constitute justices of peace, quorum, and goal delivery, in Chester, &c."

By the 32. Henry 8th. c. 43, another act was made concerning the county palatine of Chester, for shire days.

These three acts soon excited discontent in Chester. They had enjoyed an exemption from the king's English courts, legislative and executive, and they had no representatives in the English parliament, and therefore they thought it a violation of their rights, to be subjected even to those three statutes, as reasonable and absolutely necessary as they appear to have been. And accordingly we find in 1542—34 and 35, Henry 8th. c. 13, a zealous petition to be represented in parliament, and an act was made for making of knights and burgesses within the county and city of Chester. It recites a part of the petition to the king from the inhabitants of Chester, stating, "that the county palatine, had been excluded from parliament, to have any knights and burgesses there; by reason whereof, the said inhabitants have hitherto sustained manifold disherisons, losses, and damages, in lands, goods, and bodies, as well as in the goods civil and politic governance and maintenance of the commonwealth of their said county: and forasmuch as the said inhabitants have always hitherto been bound by the acts and statutes, made by your highness and progenitors in said court, meaning, when expressly named, not otherwise, as far forth as

other counties, cities, and boroughs, which have had knights and burgesses, and yet have had neither knight, nor burgess there, for the said county palatine; the said inhabitants, for lack thereof, have been oftentimes touched and grieved with acts and statutes, made within said court, as well derogatory unto the most ancient jurisdictions, liberties, and privileges of your said county palatine, as prejudicial unto the common weal, quietness, rest and peace of your subjects, &c." For remedy whereof, two knights of the shire, and two burgesses for the city are established.

I have before recited all the acts of parliament, which were ever made to meddle with Chester, except the 51. Henry 3d. stat. 5, in 1266, which only provides that the justices of Chester, and other bailiffs, shall be answerable in the exchequer, for wards, escheats, and other bailiwicks; yet Chester was never severed from the crown or realm of England, nor ever expressly exempted from the authority of parliament; yet as they had generally enjoyed an exemption from the exercise of the authority of parliament, we see how soon they complain of it as grievous, and claim a representation, as a right; and we see how readily it was granted. America, on the contrary, is not in the realm, never was subject to the authority of parliament, by any principle of law, is so far from Great Britain, that she never can be represented; yet she is to be bound in all cases whatsoever.

The first statute, which appears in which Durham is named, is 27 Henry 8th. c. 24, § 21. Cuthbert, bishop of Durham, and his successors, and their temporal chancellor of the county palatine of Durham, are made justices of the peace. The next is 31 Elizabeth,

c. 9, recites, that Durham is, and of long time hath been, an ancient county palatine, in which the Queen's writ hath not, and yet doth not run; enacts that a writ of proclamation upon an exigent against any person dwelling in the bishoprick shall run there for the future. And § 5 confirms all the other liberties of the bishop and his officers.

And after this, we find no other mention of that bishoprick in any statute until 25 Char. 2. c. 9. This statute recites "whereas the inhabitants of the county palatine of Durham, have not hitherto had the liberty and privilege of electing and sending any knights and burgesses to the high court of parliament, although the inhabitants of the said county palatine are liable to all payments, rates, and subsidies, granted by parliament, equally with the inhabitants of other counties, cities, and burroughs, in this kingdom, who have their knights and burgesses in the parliament, and are therefore concerned equally with others, the inhabitants of this kingdom, to have knights and burgesses in the said high court of parliament of their own election, to represent the condition of their county, as the inhabitants of other counties, cities, and burroughs, of this kingdom have." It enacts two knights for the county, and two burgesses for the city. Here it should be observed, that although they acknowledge that they had been liable to all rates, &c. granted by parliament, yet none had actually been laid upon them before this statute.

Massachusettensis then comes to the first charter of this province, and he tells us, that in it "we shall find irresistible evidence, that our being a part of the empire, subject to the supreme authority of the state, bound by its laws, and subject to its protection, was the very terms and conditions by which our

ancestors held their lands and settled the province." This is roundly and warmly said: but there is more zeal in it than knowledge. As to our being part of the empire, it could not be the British empire, as it is called, because that was not then in being, but was created seventy or eighty years afterwards. It must be the English empire then, but the nation was not then polite enough to have introduced into the language of the law, or common parlance any such phrase or idea. Rome never introduced the terms Roman empire until the tragedy of her freedom was compleated. Before that, it was only the republic, or the city. In the same manner the realm or the kingdom, or the dominions of the king, were the fashionable style in the age of the first charter. As to being subject to the supreme authority of the state, the prince who granted that charter thought it resided in himself, without any such troublesome tumults as lords and commons; and before the granting that charter, had dissolved his parliament, and determined never to call another, but to govern without. It is not very likely then, that he intended our ancestors should be governed by parliament, or bound by its laws. As to being subject to its protection, we may guess what ideas king and parliament had of that, by the protection they actually afforded to our ancestors. Not one farthing was ever voted or given by the king or his parliament, or any one resolution taken about them. As to holding their lands, surely they did not hold their lands of lords and commons. If they agreed to hold their lands of the king, this did not subject them to English lords and commons, any more than the inhabitants of Scotland holding their lands of the same king, subjected them. But there is not a word about the empire, the supreme authority of the state,

being bound by its laws, or obliged for its protection in that whole charter. But "our charter is in the royal style." What then? Is that the parliamentary style? The style is this, "Charles, by the grace of God, king of England, Scotland, France and Ireland, defender of the faith, &c."—Now in which capacity did he grant that charter? as king of France, or Ireland, or Scotland, or England? He governed England by one parliament, Scotland by another. Which parliament were we to be governed by? And Ireland by a third; and it might as well be reasoned that America was to be governed by the Irish parliament, as by the English. But it was granted "under the great seal of England"—true. But this seal runneth not out of the realm, except to mandatory writs; and when our charter was given, it was never intended to go out of the realm. The charter and the corporation were intended to abide and remain within the realm, and be like other corporations there. But this affair of the seal is a mere piece of imposition.

In Moore's reports in the case of the union of the realm of Scotland with England, it is resolved by the judges that "the seal is alterable by the king at his pleasure, and he might make one seal for both kingdoms (of England and Scotland) for seals, coin, and leagues are of absolute prerogative to the king, without parliament, nor restrained to any assent of the people;" and in determining how far the great seal doth command out of England, they made this distinction. "That the great seal was current for remedials, which groweth on complaint of the subject, and thereupon writs are addressed under the great seal of England, which writs are limited, their precinct to be within the places of the jurisdiction of the court, that was to give the redress of the wrong. And therefore writs are not to go into Ireland, or the

isles, nor Wales, nor the counties palatine, because the king's courts here have not power to hold pleas of lands or things there. But the great seal hath a power preceptory to the person, which power extendeth to any place, where the person may be found, &c." This authority plainly shews, that the great seal of England has no more authority out of the realm, except to mandatory or preceptory writs, and surely the first charter was no preceptory writ, than the privy seal, or the great seal of Scotland, or no seal at all. In truth, the seal and charter were intended to remain within the realm, and be of force to a corporation there; but the moment it was transferred to New England, it lost all its legal force, by the common law of England; and as this translation of it was acquiesced in by all parties, it might well be considered as good evidence of a contract between the parties, and in no other light; but not a whit the better or stronger for being under the great seal of England. But, "the grants are made by the king for his heirs and successors." What then? So the Scots held their lands of him, who was then king of England, his heirs and successors, and were bound to allegiance to him, his heirs and successors, but it did not follow from thence that the Scots were subject to the English parliament. So the inhabitants of Aquitain, for ten descents, held their lands, and were tied by allegiance to him who was king of England, his heirs and successors, but were under no subjection to English lords and commons.

Heirs and successors of the king, are supposed to be the same persons, and are used as synonymous words in the English law. There is no positive artificial provision made by our laws, or the British constitution for revolutions. All our positive laws suppose that the royal office will descend to the

eldest branch of the male line, or in default of that, to the eldest female, &c. forever, and that the succession will not be broken. It is true, that nature, necessity, and the great principles of self-preservation, have often over-ruled the succession. But this was done without any positive instruction of law. Therefore, the grants being by the king, for his heirs and successors, and the tenures being of the king, his heirs and successors, and the preservation being to the king, his heirs, and successors, are so far from proving that we were to be part of an empire, as one state, subject to the supreme authority of the English or British state, and subject to its protection, that they do not so much as prove that we are annexed to the English crown. And all the subtility of the writers on the side of the ministry, has never yet proved, that America is so much as annexed to the crown, much less to the realm. "It is apparent the king acted in his royal capacity, as king of England." This I deny. The laws of England gave him no authority to grant any territory out of the realm. Besides, there is no colour for his thinking that he acted in that capacity, but his using the great seal of England: but if the king is absolute in the affair of the seal, and may make or use any seal that he pleases, his using that seal which had been commonly used in England, is no certain proof that he acted as king of England; for it is plain, he might have used the English seal in the government of Scotland, and in that case it will not be pretended that he would have acted in his royal capacity, as king of England. But his acting as king of England, "necessarily supposes the territory granted to be a part of the English dominions, and holden of the crown of England." Here is the word "dominions," systematically introduced instead of the word

"realm." There was no English dominions, but the realm. And I say that America was not any part of the English realm or dominions. And therefore, when the king granted it, he could not act as king of England, by the laws of England. As to the "territory being holden of the crown, there is no such thing in nature or art." Lands are holden according to the original notices of feuds of the natural person of the lord. Holding lands, in feudal language, means no more than the relation between lord and tenant. The reciprocal duties of these are all personal. Homage, fealty, &c. and all other services, are personal to the lord; protection, &c. is personal to the tenant. And therefore no homage, fealty, or other services, can ever be rendered to the body politic, the political capacity, which is not corporated, but only a frame in the mind, an idea. No lands here, or in England, are held of the crown, meaning by it, the political capacity; they are all held of the royal person, the natural person of the king. Holding lands, &c. of the crown, is an impropriety of expression, but it is often used, and when it is, it can have no other sensible meaning than this: that we hold lands of that person, whoever he is, who wears the crown; the law supposes he will be a right, natural heir of the present king forever.

Massachusettensis then produces a quotation from the first charter, to prove several points. It is needless to repeat the whole, but the parts chiefly relied on, are italicised. It makes the company a body politic in fact and name, &c. and enables it "to sue and be sued." Then the writer asks, "whether this looks like a distinct state, or independent empire?" I answer no. And that it is plain and uncontroverted, that the first charter was intended only to erect a corporation within the realm, and the governor and

company were to reside within the realm, and their general courts were to be held there. Their agents, deputies, and servants only were to come to America. And if this had taken place, nobody ever doubted but they would have been subject to parliament. But this intention was not regarded on either side, and the company came over to America, and brought their charter with them. And as soon as they arrived here, they got out of the English realm, dominions, state, empire, call it by what name you will, and out of the legal jurisdiction of parliament. The king might, by his writ or proclamation, have commanded them to return; but he did not.

NOVANGLUS.

NOTE.

Hostilities, at Lexington, between Great Britain and her colonies, commenced on the nineteenth of April, two days succeeding the publication of this last essay. Several others were written, and sent to the printers of the *Boston Gazette*, which were probably lost, amidst the confusion occasioned by that event.

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the Province of Massachusetts Bay,

December 12, 1774.

MY DEAR COUNTRYMEN,

WHEN a people, by what means soever, are reduced to such a situation, that every thing they hold dear, as men and citizens, is at stake, it is not only excuseable, but even praiseworthy for an individual to offer to the public any thing, that he may think has a tendency to ward off the impending danger; nor should he be restrained from an apprehension that what he may offer will be unpopular, any more than a physician should be restrained from prescribing a salutary medicine, through fear it might be unpalatable to his patient.

The press, when open to all parties and influenced by none, is a salutary engine in a free state, perhaps a necessary one to preserve the freedom of that state; but, when a party has gained the ascendancy so far as to become the licensers of the press, either by an act of government, or by playing off the resentment of the populace against printers and authors, the press itself becomes an engine of oppression or licentiousness, and is as pernicious to society, as otherwise it would be beneficial. It is too true to be denied, that ever since the origin of our controversy

with Great Britain, the press, in this town, has been much devoted to the partizans of liberty; they have been indulged in publishing what they pleased, *fas vel nefas*, while little has been published on the part of government. The effect this must have had upon the minds of the people in general is obvious; they must have formed their opinion upon a partial view of the subject, and of course it must have been in some degree erroneous. In short, the changes have been rung so often upon oppression, tyranny and slavery, that, whether sleeping or waking, they are continually vibrating in our ears; and it is now high time to ask ourselves, whether we have not been deluded by sound only.

My dear countrymen, let us divest ourselves of prejudice, take a view of our present wretched situation, contrast it with our former happy one, carefully investigate the cause, and industriously seek some means to escape the evils we now feel, and prevent those that we have reason to expect.

We have been so long advancing to our present state, and by such gradations, that perhaps many of us are insensible of our true state and real danger. Should you be told that acts of high treason are flagrant through the country, that a great part of the province is in actual rebellion, would you believe it true? Should you not deem the person asserting it, an enemy to the province? Nay, should you not spurn him from you with indignation? Be calm, my friends; it is necessary to know the worst of a disease, to enable us to provide an effectual remedy. Are not the bands of society cut asunder, and the sanctions that hold man to man, trampled upon? Can any of us recover a debt, or obtain compensation for an injury, by law? Are not many persons, whom once we

respected and revered, driven from their homes and families, and forced to fly to the army for protection, for no other reason but their having accepted commissions under our king? Is not civil government dissolved? Some have been made to believe that nothing short of attempting the life of the king, or fighting his troops, can amount to high treason or rebellion. If, reader, you are one of those, apply to an honest lawyer, (if such an one can be found) and enquire what kind of offence it is for a number of men to assemble armed, and forcibly to obstruct the course of justice, even to prevent the king's courts from being held at their stated terms; for a body of people to seize upon the king's provincial revenue; I mean the monies collected by virtue of grants made by the general court to his majesty for the support of his government, within this province; for a body of men to assemble without being called by authority, and to pass governmental acts; or for a number of people to take the militia out of the hands of the king's representative, or to form a new militia, or to raise men and appoint officers for a public purpose, without the order or permission of the king, or his representative; or for a number of men to take to their arms, and march with a professed design of opposing the king's troops; ask, reader, of such a lawyer, what is the crime, and what the punishment; and if, perchance, thou art one that hast been active in these things, and art not insensibility itself, his answer will harrow up thy soul.

I assure you, my friends, I would not that this conduct should be told beyond the borders of this province; I wish it were consigned to perpetual oblivion; but alas, it is too notorious to be concealed; our news-papers have already published it to the world; we can neither prevent nor conceal it. The

shaft is already sped, and the utmost exertion is necessary to prevent the blow. We already feel the effects of anarchy; mutual confidence, affection, and tranquility, those sweetners of human life, are succeeded by distrust, hatred, and wild uproar; the useful arts of agriculture and commerce are neglected for caballing, mobbing this or the other man, because he acts, speaks, or is suspected of thinking different from the prevailing sentiment of the times, in purchasing arms, and forming a militia; O height of madness! with a professed design of opposing Great Britain. I suspect many of us have been induced to join in these measures, or but faintly to oppose them, from an apprehension that Great Britain would not, or could not exert herself sufficiently to subdue America. Let us consider this matter. However closely we may hug ourselves in the opinion, that the parliament has no right to tax or legislate for us, the people of England hold the contrary opinion as firmly. They tell us we are a part of the British empire; that every state, from the nature of government, must have a supreme, uncontrolable power, co-extensive with the empire itself; and that that power is vested in parliament. It is as unpopular to deny this doctrine in Great Britain, as it is to assert it in the colonies; so there is but little probability of serving ourselves at this day by our ingenious distinctions between a right of legislation for one purpose, and not for another. We have bid them defiance; and the longest sword must carry it, unless we change our measures. Mankind are the same, in all parts of the world. The same fondness for dominion that presides in the breast of an American, actuates the breast of an European. If the colonies are not a part of the British empire already, and subject to the supreme authority of the state,

Great Britain will make them so. Had we been prudent enough to confine our opposition within certain limits, we might have stood some chance of succeeding once more; but alas, we have passed the Rubicon. It is now universally said and believed, in England, that if this opportunity of reclaiming the colonies, and reducing them to a sense of their duty is lost, they, in truth, will be dismembered from the empire, and become as distinct a state from Great Britain, as Hanover; that is, although they may continue their allegiance to the person of the king, they will own none to the imperial crown of Great Britain, nor yield obedience to any of her laws, but such as they shall think proper to adopt. Can you indulge the thought one moment, that Great Britain will consent to this? For what has she protected and defended the colonies against the maritime powers of Europe, from their first British settlement to this day? For what did she purchase New-York of the Dutch? For what was she so lavish of her best blood and treasure in the conquest of Canada, and other territories in America? Was it to raise up a rival state, or to enlarge her own empire? Or if the consideration of empire was out of the question, what security can she have of our trade, when once she has lost our obedience? I mention these things, my friends, that you may know how people reason upon the subject in England, and to convince you that you are much deceived, if you imagine that Great Britain will accede to the claims of the colonies, she will as soon conquer New-England as Ireland or Canada, if either of them revolted; and by arms, if the milder influences of government prove ineffectual. Perhaps you are as fatally mistaken in another respect. I mean, as to the power of Great Britain to conquer. But can any of you, that think

soberly upon the matter, be so deluded as to believe that Great Britain, who so lately carried her arms with success to every part of the globe, triumphed over the united powers of France and Spain, and whose fleets give law to the ocean, is unable to conquer us? Should the colonies unite in a war against Great Britain (which by the way is not a supposable case) the colonies south of Pennsylvania would be unable to furnish any men; they have not more than is necessary to govern their numerous slaves, and to defend themselves against the Indians. I will suppose that the northern colonies can furnish as many, and indeed more men than can be used to advantage; but have you arms fit for a campaign? If you have arms, have you military stores, or can you procure them? When this war is proclaimed, all supplies from foreign parts will be cut off. Have you money to maintain the war? Or had you all those things, some others are still wanting, which are absolutely necessary to encounter regular troops, that is discipline, and that subordination, whereby each can command all below him, from a general officer to the lowest subaltern; these you neither have nor can have in such a war. It is well known that the provincials in the late war were never brought to a proper discipline, though they had the example of the regular troops to encourage, and the martial law to enforce it. We all know, notwithstanding the province law for regulating the militia, it was under little more command than what the officers could obtain from treating and humouring the common soldiers; what, then, can be expected from such an army as you will bring into the field, if you bring any, each one a politician, puffed up with his own opinion, and feeling himself second to none? Can any of you command ten

thousand such men? Can you punish the disobedient? Can all your wisdom direct their strength, courage or activity to any given point? Would not the least disappointment or unfavourable aspect cause a general dereliction of the service? Your new-fangled militia have already given us a *specimen* of their future conduct. In some of their companies, they have already chosen two, in others, three sets of officers, and are as dissatisfied with the last choice as the first. I do not doubt the natural bravery of my countrymen; all men would act the same part in the same situation. Such is the army with which you are to oppose the most powerful nation upon the globe. An experienced officer would rather take his chance with five thousand British troops, than with fifty thousand such militia. I have hitherto confined my observations to the war within the interior parts of the colonies, let us now turn our eyes to our extensive sea coast, and that we find wholly at the mercy of Great Britain; our trade, fishery, navigation, and maritime towns taken from us the very day that war is proclaimed. Inconceivably shocking the scene; if we turn our views to the wilderness, our back settlements a prey to our ancient enemy, the Canadians, whose wounds received from us in the late war, will bleed afresh at the prospect of revenge, and to the numerous tribes of savages, whose tender mercies are cruelties. Thus with the British navy in the front, Canadians and savages in the rear, a regular army in the midst, we must be certain that whenever the sword of civil war is unsheathed, devastation will pass through our land like a whirlwind; our houses be burnt to ashes; our fair possessions laid waste, and he that falls by the sword, will be happy in escaping a more ignominious death.

I have hitherto gone upon a supposition, that all the colonies, from Nova-Scotia to Georgia, would unite in the war against Great Britain; but I believe, if we consider coolly upon the matter, we shall find no reason to expect any assistance out of New-England; if so, there will be no arm stretched out to save us. New England, or perhaps this self-devoted province will fall alone the unpitied victim of its own folly, and furnish the world with one more instance of the fatal consequences of rebellion.

I have as yet said nothing of the difference in sentiment among ourselves. Upon a superficial view we might imagine that this province was nearly unanimous; but the case is far different. A very considerable part of the men of property in this province, are at this day firmly attached to the cause of government; bodies of men, compelling persons to disavow their sentiments, to resign commissions, or to subscribe leagues and covenants, has wrought no change in their sentiments; it has only attached them more closely to government, and caused them to wish more fervently, and to pray more devoutly, for its restoration. These, and thousands beside, if they fight at all, will fight under the banners of loyalty. I can assure you that associations are now forming in several parts of this province, for the support of his majesty's government and mutual defence; and let me tell you, whenever the royal standard shall be set up, there will be such a flocking to it, as will astonish the most obdurate. And now, in God's name, what is it that has brought us to this brink of destruction? Has not the government of Great Britain been as mild and equitable in the colonies, as in any part of her extensive dominions? Has not she been a nursing mother to us, from the days of our infancy to this time? Has she not been indulgent almost to a fault?

Might not each one of us at this day have sat quietly under his own vine and fig-tree, and there have been none to make us afraid, were it not for our own folly? Will not posterity be amazed, when they are told that the present distraction took its rise from a three penny duty on tea, and call it a more unaccountable frenzy, and more disgraceful to the annals of America, than that of the witchcraft?

I will attempt in the next paper to retrace the steps and mark the progressions that led us to this state. I promise to do it with fidelity; and if any thing should look like reflecting on individuals or bodies of men, it must be set down to my impartiality, and not to a fondness for censuring.

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the Province of Massachusetts Bay,

December 19, 1774.

MY DEAR COUNTRYMEN,

I ENDEAVOURED last week to convince you of our

real danger, not to render you desperate, but to induce you to seek immediately some effectual remedy. Our case is not yet remediless, as we have to deal with a nation not less generous and humane, than powerful and brave; just indeed, but not vindictive.

I shall, in this and successive papers, trace this yet growing distemper through its several stages, from the first rise to the present hour, point out the causes, mark the effects, shew the madness of persevering in our present line of conduct, and recommend what, I have been long convinced, is our only remedy. I confess myself to be one of those, that think our present calamity is in a great measure to be attributed to the bad policy of a popular party in this province; and that their measures for several years past, whatever may have been their intention, have been diametrically opposite to their profession,—the public good; and cannot, at present, but compare their leaders to a false guide, that having led a benighted traveller through many mazes and windings in a thick wood, finds himself at length on the brink of a horrid precipice, and, to save himself, seizes fast hold of his follower, to the utmost hazard of plunging both headlong down the steep, and being dashed in pieces together against the rocks below.

In ordinary cases we may talk in the measured language of a courtier; but when such a weight of vengeance is suspended over our heads, by a single thread, as threatens every moment to crush us to atoms, delicacy itself would be ill-timed. I will declare the plain truth wherever I find it, and claim it as a right to canvass popular measures and expose their errors and pernicious tendency, as freely as governmental measures are canvassed, so long as I

confine myself within the limits of the law.

At the conclusion of the late war, Great Britain found that though she had humbled her enemies, and greatly enlarged her own empire, that the national debt amounted to almost one hundred and fifty millions, and that the annual expence of keeping her extended dominions in a state of defence, which good policy dictates no less in a time of peace than war, was increased in proportion to the new acquisitions. Heavy taxes and duties were already laid, not only upon the luxuries and conveniences, but even the necessaries of life in Great Britain and Ireland. She knew that the colonies were as much benefitted by the conquests in the late war, as any part of the empire, and indeed more so, as their continental foes were subdued, and they might now extend their settlements not only to Canada, but even to the western ocean.—The greatest opening was given to agriculture, the natural livelihood of the country, that ever was known in the history of the world, and their trade was protected by the British navy. The revenue to the crown, from America, amounted to but little more than the charges of collecting it. She thought it as reasonable that the colonies should bear a part of the national burden, as that they should share in the national benefit. For this purpose the stamp-act was passed. The colonies soon found that the duties imposed by the stamp-act would be grievous, as they were laid upon custom-house papers, law proceedings, conveyancing, and indeed extended to almost all their internal trade and dealings. It was generally believed through the colonies, that this was a tax not only exceeding our proportion, but beyond our utmost ability to pay. This idea, united the colonies generally in opposing it. At first we did not dream of denying the *authority*

of parliament to tax us, much less to legislate for us. We had always considered ourselves, as a part of the British empire, and the parliament, as the supreme legislature of the whole. Acts of parliament for regulating our internal polity were familiar. We had paid postage agreeable to act of parliament, for establishing a post-office, duties imposed for regulating trade, and even for raising a revenue to the crown without questioning the right, though we closely adverted to the rate or quantum. We knew that in all those acts of government, the good of the whole had been consulted, and whenever through want of information any thing grievous had been ordained, we were sure of obtaining redress by a proper representation of it. We were happy in our subordination; but in an evil hour, under the influence of some malignant planet, the design was formed of opposing the stamp-act, by a denial of the right of parliament to make it. The love of empire is so predominant in the human breast, that we rarely find an individual content with relinquishing a power that he is able to retain; never a body of men. Some few months after it was known that the stamp-act was passed, some resolves of the house of burgesses in Virginia, denying the right of parliament to tax the colonies, made their appearance. We read them with wonder; they savoured of independence; they flattered the human passions; the reasoning was specious; we wished it conclusive. The transition, to believing it so, was easy; and we, and almost all America, followed their example, in resolving that the parliament had no such right. It now became unpopular to suggest the contrary; his life would be in danger that asserted it. The newspapers were open to but one side of the question, and the inflammatory pieces that issued weekly from the press, worked up

the populace to a fit temper to commit the outrages that ensued. A non-importation was agreed upon, which alarmed the merchants and manufacturers in England. It was novel, and the people in England then supposed, that the love of liberty was so powerful in an American merchant, as to stifle his love of gain, and that the agreement would be religiously adhered to. It has been said, that several thousands were expended in England, to foment the disturbances there. However that may be, opposition to the ministry was then gaining ground, from circumstances, foreign to this. The ministry was changed, and the stamp-act repealed. The repealing statute passed, with difficulty however, through the house of peers, near forty noble lords protested against giving way to such an opposition, and foretold what has since literally come to pass in consequence of it. When the statute was made, imposing duties upon glass, paper, India teas, &c. imported into the colonies, it was said, that this was another instance of taxation, for some of the dutied commodities were necessaries, we had them not within ourselves, were prohibited from importing them from any place except Great Britain, were therefore obliged to import them from Great Britain, and consequently, were obliged to pay the duties. Accordingly newspaper publications, pamphlets, resolves, non-importation agreements, and the whole system of American opposition was again put in motion. We obtained a partial repeal of this statute, which took off the duties from all the articles except teas. This was the lucky moment when to have closed the dispute. We might have made a safe and honorable retreat. We had gained much, perhaps more than we expected. If the parliament had passed an act declaratory of their right to tax us, our

assemblies had resolved, ten times, that they had no such right. We could not complain of the three-penny duty on tea as burdensome, for a shilling which had been laid upon it, for the purpose of regulating trade, and therefore was allowed to be constitutional, was taken off; so that we were in fact gainers nine-pence in a pound by the new regulation. If the appropriation of the revenue, arising from this statute was disrelished, it was only our striking off one article of luxury from our manner of living, an article too, which if we may believe the resolves of most of the towns in this province, or rely on its collected wisdom in a resolve of the house of representatives, was to the last degree ruinous to health. It was futile to urge its being a precedent, as a reason for keeping up the ball of contention; for, allowing the supreme legislature ever to want a precedent, they had many for laying duties on commodities imported into the colonies. And beside we had great reason to believe that the remaining part of the statute would be repealed, as soon as the parliament should suppose it could be done with honor to themselves, as the incidental revenue arising from the former regulation, was four fold to the revenue arising from the latter. A claim of the right, could work no injury, so long as there was no grievous exercise of it, especially as we had protested against it, through the whole, and could not be said to have departed from our claims in the least. We might now upon good terms have dropped the dispute, and been happy in the affections of our mother country; but that is yet to come. Party is inseperable from a free state. The several distributions of power, as they are limited by, so they create perpetual dissentions between each other, about their respective boundaries; but the greatest

source is the competition of individuals for preferment in the state. Popularity is the ladder by which the partizans usually climb. Accordingly, the struggle is, who shall have the greatest share of it. Each party professes disinterested patriotism, though some cynical writers have ventured to assert, that self-love is the ruling passion of the whole. There were two parties in this province of pretty long standing, known by the name of whig and tory, which at this time were not a little imbittered against each other. Men of abilities and acknowledged probity were on both sides. If the tories were suspected of pursuing their private interest through the medium of court favor, there was equal reason to suspect the whigs of pursuing their private interest by the means of popularity. Indeed some of them owed all their importance to it, and must in a little time have sunk into obscurity, had these turbulent commotions then subsided.

The tories and whigs took different routs, as usual. The tories were for closing the controversy with Great Britain, the whigs for continuing it; the tories were for restoring government in the province, which had become greatly relaxed by these convulsions, to its former tone; the whigs were averse to it; they even refused to revive a temporary riot act, which expired about this time. Perhaps they thought that mobs were a necessary ingredient in their system of opposition. However, the whigs had great advantages in the unequal combat; their scheme flattered the people with the idea of independence; the tories' plan supposed a degree of subordination, which is rather an humiliating idea; besides there is a propensity in men to believe themselves injured and oppressed whenever they are told so. The ferment, raised in their minds in the

time of the stamp-act, was not yet allayed, and the leaders of the whigs had gained the confidence of the people by their successes in their former struggles, so that they had nothing to do but to keep up the spirit among the people, and they were sure of commanding in this province. It required some pains to prevent their minds settling into that calm, which is ordinarily the effect of a mild government; the whigs were sensible that there was no oppression that could be either seen or felt; if any thing was in reality amiss in government, it was its being too lax. So far was it from the innocent being in danger of suffering, that the most atrocious offenders escaped with impunity. They accordingly applied themselves to work upon the imagination, and to inflame the passions; for this work they possessed great talents; I will do justice to their ingenuity; they were intimately acquainted with the feelings of man, and knew all the avenues to the human heart. Effigies, paintings, and other imagery were exhibited; the fourteenth of August was celebrated annually as a festival in commemoration of a mob's destroying a building, owned by the late Lieutenant Governor, which was supposed to have been erected for a stamp-office; and compelling him to resign his office of stamp-master under liberty tree; annual orations were delivered in the old south meeting house, on the fifth of March, the day when some persons were unfortunately killed by a party of the twenty-ninth regiment; lists of imaginary grievances were continually published; the people were told weekly that the ministry had formed a plan to enslave them; that the duty upon tea was only a prelude to a window tax, hearth tax, land tax, and poll tax; and these were only paving the way for reducing the country to lordships. This last bait was the more

easily swallowed, as there seems to be an apprehension of that kind hereditary to people of New-England; and were conjured by the duty they owed themselves, their country, and their God, by the reverence due to the sacred memory of their ancestors, and all their toils and sufferings in this once inhospitable wilderness, and by their affections for unborn millions, to rouse and exert themselves in the common cause. This perpetual incantation kept the people in continual alarm. We were further stimulated by being told, that the people of England were depraved, the parliament venal, and the ministry corrupt; nor were attempts wanting to traduce Majesty itself. The kingdom of Great Britain was depicted as an ancient structure, once the admiration of the world, now sliding from its base, and rushing to its fall. At the same time we were called upon to mark our own rapid growth, and behold the certain evidence that America was upon the eve of independent empire.

When we consider what effect a well written tragedy or novel has on the human passions, though we know it to be all fictitious, what effect must all this be supposed to have had upon those, that believed these high wrought images to be realities?

The tories have been censured for remissness in not having exerted themselves sufficiently at this period. The truth of the case is this; they saw and shuddered at the gathering storm, but durst not attempt to dispel it, lest it should burst on their own heads. Printers were threatened with the loss of their bread, for publishing freely on the tory side. One Mr. Mein was forced to fly the country for persisting in it.

All our dissenting ministers were not inactive on this

occasion. When the clergy engage in a political warfare, religion becomes a most powerful engine, either to support or overthrow the state. What effect must it have had upon the audience to hear the same sentiments and principles, which they had before read in a newspaper, delivered on Sundays from the sacred desk, with a religious awe, and the most solemn appeals to heaven, from lips which they had been taught, from their cradles, to believe could utter nothing but eternal truths? What was it natural to expect from a people bred under a free constitution, jealous of their liberty, credulous, even to a proverb, when told their privileges were in danger, thus wrought upon in the extreme? I answer, outrages disgraceful to humanity itself. What mischief was not an artful man, who had obtained the confidence and guidance of such an enraged multitude, capable of doing? He had only to point out this or the other man, as an enemy of his country; and no character, station, age, or merit could protect the proscribed from their fury. Happy was it for him, if he could secrete his person, and subject his property only to their lawless ravages. By such means, many people naturally brave and humane, have been wrought upon to commit such acts of private mischief and public violence, as will blacken many a page in the history of our country.

I shall next trace the effects of this spirit, which the whigs had thus infused into the body of the people, through the courts of common law, and the general assembly, and mark the ways and means, whereby they availed themselves of it, to the subversion of our charter constitution, antecedent to the late acts of parliament.

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the Province of Massachusetts Bay,

December 26, 1774.

MY DEAR COUNTRYMEN,

TO undertake to convince a person of his error, is the indispensible duty, the certain, though dangerous test of friendship. He that could see his friend persevering in a fatal error, without reminding him of it, and striving to reclaim him, through fear that he might thereby incur his displeasure, would little deserve the sacred name himself. Such delicacy is not only false, but criminal. Were I not fully convinced upon the most mature deliberation, that I am capable of, that the temporal salvation of this province depends upon an entire and speedy change of measures, which must depend upon a change of sentiment, respecting our own conduct, and the justice of the British nation, I never should have obtruded myself on the public. I repeat my promise, to avoid personal reflection, as much as the nature of the task will admit of; but will continue faithfully to expose the wretched policy of the whigs, though I may be obliged to penetrate the arcana, and discover

such things as, were there not a necessity for it, I should be infinitely happier in drawing a veil over, or covering with a mantle. Should I be so unfortunate as to incur your displeasure, I shall nevertheless think myself happy, if I can but snatch one of my fellow-subjects as a brand out of the burning.

Perhaps some may imagine that I have represented too many of my countrymen, as well as the leading whigs, in an unjust point of light, by supposing these so wicked as to mislead, or those so little circumspect as to be misled, in matters of the last importance. Whoever has been conversant with the history of man, must know that it abounds with such instances. The same game, and with the same success, has been played in all ages, and all countries.

The bulk of the people are generally but little versed in matters of state. Want of inclination or opportunity to figure in public life, makes them content to rest the affairs of government in the hands, where accident or merit has placed them. Their views and employments are confined to the humbler walks of business or retirement. There is a latent spark however, in their breasts, capable of being kindled into a flame; to do this has always been the employment of the disaffected. They begin by reminding the people of the elevated rank they hold in the universe, as men; that all men by nature are equal; that kings are but the ministers of the people; that their authority is delegated to them by the people for their good, and they have a right to resume it, and place it in other hands, or keep it themselves, whenever it is made use of to oppress them. Doubtless there have been instances where

these principles have been inculcated to obtain a redress of real grievances, but they have been much oftener perverted to the worst of purposes. No government, however perfect in theory, is administered in perfection; the frailty of man does not admit of it. A small mistake, in point of policy, often furnishes a pretence to libel government, and persuade the people that their rulers are tyrants, and the whole government a system of oppression. Thus the seeds of sedition are usually sown, and the people are led to sacrifice real liberty to licentiousness, which gradually ripens into rebellion and civil war. And what is still more to be lamented, the generality of the people, who are thus made the dupes of artifice, and the mere stilts of ambition, are sure to be losers in the end. The best they can expect, is to be thrown neglected by, when they are no longer wanted; but they are seldom so happy; if they are subdued, confiscation of estate and ignominious death are their portion; if they conquer, their own army is often turned upon them, to subjugate them to a more tyranical government than that they rebelled against. History is replete with instances of this kind; we can trace them in remote antiquity, we find them in modern times, and have a remarkable one in the very country from which we are derived. It is an universal truth, that he that would excite a rebellion, whatever professions of philanthropy he may make, when he is insinuating and worming himself into the good graces of the people, is at heart as great a tyrant as ever wielded the iron rod of oppression. I shall have occasion hereafter to consider this matter more fully, when I shall endeavour to convince you how little we can gain, and how much we may lose, by this unequal, unnatural, and desperate contest. My present

business is, to trace the spirit of opposition to Great Britain through the general court, and the courts of common law. In moderate times, a representative that votes for an unpopular measure, or opposes a popular one, is in danger of losing his election the next year; when party runs high, he is sure to do it. It was the policy of the whigs to have their questions, upon high matters, determined by yea and nay votes, which were published with the representatives' names in the next gazette. This was commonly followed by severe strictures and the most illiberal invectives upon the dissentients; sometimes they were held up as objects of resentment, of contempt at others; the abuse was in proportion to the extravagance of the measure they opposed. This may seem not worth notice, but its consequences were important. The scurrility made its way into the dissentient's town, it furnished his competitor with means to supplant him, and he took care to shun the rock his predecessor had split upon. In this temper of the times, it was enough to know who voted with Cassius and who with Lucius, to determine who was a friend and who an enemy to the country, without once adverting to the question before the house. The loss of a seat in the house was not of so much consequence; but when once he became stigmatized as an enemy to his country, he was exposed to insult; and if his profession or business was such, that his livelihood depended much on the good graces of his fellow citizens, he was in danger of losing his bread, and involving his whole family in ruin.

One particular set of members, in committee, always prepared the resolves and other spirited measures. At first they were canvassed freely, at length would slide through the house without meeting an obstacle. The lips of the dissentients were sealed up; they sat

in silence, and beheld with infinite regret the measures they durst not oppose. Many were borne down against their wills, by the violence of the current; upon no other principle can we reconcile their ostensible conduct in the house to their declarations in private circles. The apparent unanimity in the house encouraged the opposition out of doors, and that in its turn strengthened the party in the house. Thus they went on mutually supporting and up-lifting each other. Assemblies and towns resolved alternately; some of them only omitted resolving to snatch the sceptre out of the hands of our sovereign, and to strike the imperial crown from his sacred head.

A master stroke in politics respecting the agent, ought not to be neglected. Each colony has usually an agent residing at the court of Great Britain. These agents are appointed by the three branches of their several assemblies; and indeed there cannot be a provincial agent without such appointment. The whigs soon found that they could not have such services rendered them from a provincial agent, as would answer their purposes. The house therefore refused to join with the other two branches of the general court in the appointment. The house chose an agent for themselves, and the council appointed another. Thus we had two agents for private purposes, and the expence of agency doubled; and with equal reason a third might have been added, as agent for the Governor, and the charges been trebled.

The additional expence was of little consideration, compared with another inconvenience that attended this new mode of agency. The person appointed by the house was the ostensible agent of the province, though in fact he was only the agent of a few

individuals that had got the art of managing the house at their pleasure. He knew his continuing in office depended upon them. An office, that yielded several hundred pounds sterling annually, the business of which consisted in little more than attending the levees of the great, and writing letters to America, was worth preserving. Thus he was under a strong temptation to sacrifice the province to a party; and ecchoed back the sentiments of his patrons.

The advices continually received from one of the persons, that was thus appointed agent, had great influence upon the members of the house of more moderate principles. He had pushed his researches deep into nature, and made important discoveries: they thought he had done the same in politics, and did not admire him less as a politician, than as a philosopher. His intelligence as to the disposition of his majesty, the ministry, the parliament and the nation in general, was deemed the most authentic. He advised us to keep up our opposition, to resolve, and re-resolve, to cherish a military spirit, uniformly holding up this idea, that if we continued firm, we had nothing to fear from the government in England. He even proposed some modes of opposition himself. The spirited measures were always ushered into the house with a letter from him. I have been sometimes almost ready to suspect him of being the *primum mobile*, and, that like the man behind the curtain at a puppet-shew, he was playing off the figures here with his own secret wires. If he advised to these measures contrary to his better knowledge, from sinister views, and to serve a private purpose, he has *wilfully* done the province irreparable injury. However, I will do him justice; he enjoined it upon us to refrain from violence, as that would unite the

nation against us; and I am rather inclined to think that he was deceived himself, with respect to the measures he recommended, as he has already felt the resentment of that very government, which he told us there was nothing to fear from. This disposition of the house could not have produced such fatal effects, had the other two branches of the legislature retained their constitutional freedom and influence. They might have been a sufficient check.

The councellors depended upon the general assembly for their political existence; the whigs reminded the council of their mortality. If a councellor opposed the violent measures of the whigs with any spirit, he lost his election the next May. The council consisted of twenty-eight. From this principle, near half that number, mostly men of the first families, note and abilities, with every possible attachment to their native country, and as far from temptation as wealth and independence could remove them, were tumbled from their seats in disgrace. Thus the board, which was intended to moderate between the two extremes of prerogative and privilege, lost its weight in the scale, and the political balance of the province was destroyed.

Had the chair been able to retain its own constitutional influence, the loss of the board would have been less felt; but no longer supported by the board, that fell likewise. The Governor by the charter could do little or nothing without the council. If he called upon a military officer to raise the militia, he was answered, they were there already. If he called upon his council for their assistance, they must first enquire into the cause. If he wrote to government at home to strengthen his hands, some officious person procured and sent back his letters.

It was not the person of a Bernard or Hutchinson that made them obnoxious; any other governors would have met with the same fate, had they discharged their duty with equal fidelity; that is, had they strenuously opposed the principles and practices of the whigs; and when they found that the government here could not support itself, wrote home for aid sufficient to do it. And let me tell you, had the intimations in those letters, which you are taught to execrate, been timely attended to, we had now been as happy a people as good government could make us. Gov. Bernard came here recommended by the affections of the province over which he had presided. His abilities are acknowledged. True British honesty and punctuality are traits in his character, too strongly marked to escape the eye of prejudice itself. We know Governor Hutchinson to be amiable and exemplary in private life. His great abilities, integrity and humanity were conspicuous, in the several important departments that he filled, before his appointment to the chair, and reflect honour on his native country. But his abilities and integrity, added to his thorough knowledge of the province, in all its interests and connexions, were insufficient in this case. The constitution itself was gone, though the ancient form remained; the spirit was truly republican. He endeavoured to reclaim us by gentle means. He strove to convince us by arguments, drawn from the first principles of government; our several charters, and the express acknowledgments of our ancestors, that our claims were inconsistent with the subordination due to Great Britain; and if persisted in, might work the destruction of those that we were entitled to. For this he was called an enemy to his country, and set up as a mark for the envenomed arrows of malice and party rage. Had I

entertained a doubt about its being the governor, and not the man that was aimed at, the admirable facility with which the newspaper abuse was transferred from Gov. Hutchinson to his humane and benevolent successor, Gen. Gage, almost as soon as he set foot on our shore, would have removed it.

Thus, disaffection to Great Britain being infused into the body of the people, the subtle poison stole through all the veins and arteries, contaminated the blood, and destroyed the very stamina of the constitution. Had not the courts of justice been tainted in the early stages, our government might have expelled the virus, purged off the peccant humors, and recovered its former vigour by its own strength. The judges of the superior court were dependant upon the annual grants of the general court for their support. Their salaries were small, in proportion to the salaries of other officers in the government, of less importance.

They had often petitioned the assembly to enlarge them, without success. They were at this time reminded of their dependance. However, it is but justice to say, that the judges remained unshaken, amid the raging tempests, which is to be attributed rather to their firmness than situation. But the spirit of the times was very apparent in the juries. The grand jurors were elective; and in such places where libels, riots, and insurrections were the most frequent, the high whigs took care to get themselves chosen. The judges pointed out to them the seditious libels on governors, magistrates, and the whole government to no effect. They were enjoined to present riots and insurrections, of which there was ample evidence, with as little success.

It is difficult to account for so many of the first rate whigs being returned to serve on the petit jury at the term next after extraordinary insurrections, without supposing some legerdemain in drawing their names out of the box. It is certain that notwithstanding swarms of the most virulent libels infested the province, and there were so many riots and insurrections, scarce one offender was indicted, and I think not one convicted and punished. Causes of *meum et tuum* were not always exempt from party influence. The mere circumstance of the whigs gaining the ascendency over the tories, is trifling. Had the whigs divided the province between them, as they once flattered themselves they should be able to do, it would have been of little consequence to the community, had they not cut asunder the very sinews of government, and broke in pieces the ligaments of social life in the attempt. I will mention two instances, which I have selected out of many, of the weakness of our government, as they are recent and unconnected with acts of parliament. One Malcolm, a loyal subject, and as such entitled to protection, the evening before the last winter sessions of the general court, was dragged out of his house, stript, tarred and feathered, and carted several hours in the severest frost of that winter, to the utmost hazard of his life. He was carried to the gallows with an halter about his neck, and in his passage to and from the gallows, was beaten with as cruel stripes as ever were administered by the hands of a savage. The whipping, however, kept up the circulation of his blood, and saved the poor man's life. When they had satiated their malice, they dispersed in good order. This was transacted in the presence of thousands of spectators; some of whom were members of the general court. Malcolm's life

was despaired of several days, but he survived and presented a memorial to the general assembly, praying their interposition. The petition was read, and all he obtained was leave to withdraw it. So that he was destitute of protection every hour, until he left the country, as were thousands beside, until the arrival of the king's troops. This originated from a small fracas in the street, wherein Malcolm struck, or threatened to strike a person that insulted him, with a cutlass, and had no connection with the quarrel of the times, unless his sustaining a small post in the customs made it.

The other instance is much stronger than this, as it was totally detached from politics. It had been suspected that infection had been communicated from an hospital, lately erected at Marblehead, for the purpose of innoculating the small-pox, to the town's people. This caused a great insurrection; the insurgents burnt the hospital; not content with that, threatened the proprietors, and many others, some of the first fortunes and characters in the town, with burning their houses over their heads, and continued parading the streets, to the utmost terror of the inhabitants several days. A massacre and general devastation was apprehended. The persons threatened, armed themselves, and petitioned the general assembly, which was then sitting, for assistance, as there was little or no civil authority in the place. A committee was ordered to repair to Marblehead, report the facts, and enquire into the cause. The committee reported the facts nearly as stated in the petition. The report was accepted, and nothing farther done by the assembly. Such demonstrations of the weakness of government induced many persons to join the whigs, to seek from them that protection, which the constitutional

authority of the province was unable to afford.

Government at home, early in the day, made an effort to check us in our career, and to enable us to recover from anarchy without her being driven to the necessity of altering our provincial constitution, knowing the predilection that people always have for an ancient form of government. The judges of the superior court had not been staggered, though their feet stood in slippery places, they depended upon the leading whigs for their support. To keep them steady, they were made independent of the grants of the general assembly: but it was not a remedy any way adequate to the disease. The whigs now turned their artillery against them, and it played briskly. The chief justice, for accepting the crown grant, was accused of receiving a royal bribe.

Thus, my friends, those very persons that had made you believe that every attempt to strengthen government and save our charter was an infringement of your privileges, by little and little destroyed your real liberty, subverted your charter constitution, abridged the freedom of the house, annihilated the freedom of the board, and rendered the governor a mere doge of Venice. They engrossed all the power of the province into their own hands. A democracy or republic it has been called, but it does not deserve the name of either; it was, however, a despotism cruelly carried into execution by mobs and riots, and more incompatible with the rights of mankind, than the enormous monarchies of the East. The absolute necessity of the interposition of parliament is apparent. The good policy of the act for regulating the government in this province, will be the subject of some future paper. A particular enquiry into the despotism of the whigs will be

deferred for a chapter on congresses. I shall next ask your attention to a transaction, as important in its consequences, and perhaps more so, than any I have yet mentioned; I mean the destruction of the tea, belonging to the East-India company. I am sensible of the difficulty of the task, in combating generally received opinions. It is hard work to eradicate deep-rooted prejudice. But I will persevere. There are hundreds, if not thousands, in the province, that will feel the truth of what I have written, line by line as they read it, and as to those who obstinately shut their eyes against it now, haply the fever of the times may intermit, there may be some lucid interval, when their minds shall be open to truth, before it is too late to serve them; otherwise it will be revealed to them in bitter moments, attended with keen remorse and unutterable anguish. *Magna est veritas et prevalebit.*

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the Province of Massachusetts Bay,

January 2, 1775.

MY DEAR COUNTRYMEN,

PERHAPS by this time some of you may enquire who it is, that suffers his pen to run so freely? I will tell you; it is a native of this province, that knew it before many that are now basking in the rays of political sunshine, had a being. He was favored not by whigs or tories, but the people, with such a stand in the community, as that he could distinctly see all the political manœuvres of the province. He saw some with pleasure, others with pain. If he condemns the conduct of the whigs, he does not always approve of the conduct of the tories. He dwells upon the misconduct of the former, because we are indebted to that for bringing us into this wretched state, unless the supineness of the latter, at some periods, and some impolitic efforts to check the whigs in their career, at others, that served like adding fuel to the fire, ought to be added to the account. He is now repaying your favors, if he knows his own heart, from the purest gratitude and the most undissembled patriotism, which will one day be acknowledged. I saw the small seed of sedition, when it was implanted; it was, as a grain of mustard. I have watched the plant until it has become a great tree; the vilest reptiles that crawl upon the earth, are concealed at the root; the foulest birds of the air rest upon its branches. I now would induce you to go to work immediately with axes and hatchets, and cut it down, for a twofold reason; because it is a pest to society, and lest it be felled suddenly by a stronger arm and crush its thousands in the fall.

An apprehension of injustice in the conduct of Great Britain towards us, I have already told you was one source of our misery. Last week I endeavoured to convince you of the necessity of her regulating, or

rather establishing some government amongst us. I am now to point out the principles and motives upon which the blockade act was made. The violent attack upon the property of the East-India company, in the destruction of their tea, was the cause of it. In order to form a right judgment of that transaction, it is necessary to go back and view the cause of its being sent here. As the government of England is mixt, so the spirit or genius of the nation is at once monarchial, aristocratical, democratical, martial and commercial. It is difficult to determine which is the most predominant principle, but it is worthy of remark, that, to injure the British nation upon either of these points, is like injuring a Frenchman in the point of honor. Commerce is the great source of national wealth; for this reason it is cherished by all orders of men from the palace to the cottage. In some countries, a merchant is held in contempt by the nobles; in England they respect him. He rises to high honors in the state, often contracts alliances with the first families in the kingdom, and noble blood flows in the veins of his posterity. Trade is founded upon persons or countries mutually supplying each other with their redundances. Thus none are impoverished, all enriched, the asperities of human life worne away, and mankind made happier by it. Husbandry, manufacture and merchandize are its triple support; deprived of either of these, it would cease.

Agriculture is the natural livelihood of a country but thinly inhabited, as arts and manufactures are of a populous one. The high price of labour prevents manufactures being carried on to advantage in the first, scarcity of soil obliges the inhabitants to pursue them in the latter. Upon these, and considerations arising from the fertility and produce of different

climates, and such like principles, the grand system of the British trade is founded. The collected wisdom of the nation has always been attentive to this great point of policy, that the national trade might be so balanced and poised, as that each part of her extended dominions might be benefitted, and the whole concentre to the good of the empire. This evinces the necessity of acts for regulating trade.

To prevent one part of the empire being enriched at the expence and to the impoverishing of another, checks, restrictions, and sometimes absolute prohibitions are necessary. These are imposed or taken off as circumstances vary. To carry the acts of trade into execution, many officers are necessary. Thus, we see a number of custom-house officers, so constituted as to be checks and controuls upon each other, and prevent their swerving from their duty, should they be tempted, and a board of commissioners appointed to superintend the whole, like the commissioners of the customs in England. Hence also arises the necessity of courts of admiralty.

The laws and regulations of trade, are esteemed in England, as sacred. An estate made by smuggling or pursuing an illicit trade, is there looked upon as filthy lucre, as monies amassed by gaming, and upon the same principle, because it is obtained at the expence, and often ruin of others. The smuggler not only injures the public, but often ruins the fair trader.

The great extent of sea-coast, many harbours, the variety of islands, the numerous creeks and navigable rivers, afford the greatest opportunity to drive an illicit trade, in these colonies, without detection. This advantage has not been overlooked

by the avaricious, and many persons seem to have set the laws of trade at defiance. This accounts for so many new regulations being made, new officers appointed, and ships of war, from time to time, stationed along the continent. The way to Holland and back again is well known, and by much the greatest part of the tea that has been drank in America for several years, has been imported from thence and other places, in direct violation of law. By this the smugglers have amassed great estates, to the prejudice of the fair trader. It was sensibly felt by the East-India company; they were prohibited from exporting their teas to America, and were obliged to sell it at auction in London; the London merchant purchased it, and put a profit upon it when he shipt it for America; the American merchant, in his turn, put a profit upon it, and after him the shopkeeper; so that it came to the consumer's hands, at a very advanced price. Such quantities of tea were annually smuggled that it was scarcely worth while for the American merchant to import tea from England at all. Some of the principal trading towns in America were wholly supplied with this commodity by smuggling; Boston however continued to import it, until advice was received that the parliament had it in contemplation to permit the East-India company to send their teas directly to America. The Boston merchants then sent their orders conditionally to their correspondents in England, to have tea shipt for them in case the East-India company's tea did not come out; one merchant, a great whig, had such an order lying in England for sixty chests, on his own account, when the company's tea was sent. An act of parliament was made to enable the East-India company to send their tea directly to America, and sell it at auction there, not with a view of raising a

revenue from the three penny duty, but to put it out of the power of the smugglers to injure them by their infamous trade. We have it from good authority, that the revenue was not the consideration before parliament, and it is reasonable to suppose it; for had that been the point in view, it was only to restore the former regulation, which was then allowed to be constitutional, and the revenue would have been respectable. Had this new regulation taken effect, the people in America would have been great gainers. The wholesale merchant might have been deprived of some of his gains; but the retailer would have supplied himself with this article, directly from the auction, and the consumer reap the benefit, as tea would have been sold under the price that had been usual, by near one half. Thus the country in general would have been great gainers, the East-India company secured in supplying the American market with this article, which they are entitled to by the laws of trade, and smuggling suppressed, at least as to tea. A smuggler and a whig are cousin germans, the offspring of two sisters, avarice and ambition. They had been playing into each others hands a long time. The smuggler received protection from the whig, and he in his turn received support from the smuggler. The illicit trader now demanded protection from his kinsman, and it would have been unnatural in him to have refused it; and beside, an opportunity presented of strengthening his own interest. The consignees were connected with the tories, and that was a further stimulus. Accordingly the press was again set to work, and the old story repeated with addition about monopolies, and many infatuated persons once more wrought up to a proper pitch to carry into execution any violent measures, that their leaders should propose. A bold stroke was resolved

upon. The whigs, though they had got the art of managing the people, had too much sense to be ignorant that it was all a mere finesse, not only without, but directly repugnant to law, constitution and government, and could not last always. They determined to put all at hazard, and to be *aut Cæsar aut nullus*. The approaching storm was foreseen, and the first ship that arrived with the tea, detained below Castle William. A body meeting was assembled at the old south meeting-house, which has great advantage over a town meeting, as no law has yet ascertained the qualification of the voters; each person present, of whatever age, estate or country, may take the liberty to speak or vote at such an assembly; and that might serve as a screen to the town where it originated, in case of any disastrous consequence. The body meeting consisting of several thousands, being thus assembled, with the leading whigs at its head, in the first place sent for the owner of the tea ship, and required him to bring her to the wharf, upon pain of their displeasure; the ship was accordingly brought up, and the master was obliged to enter at the custom house. He reported the tea, after which twenty days are allowed for landing it and paying the duty.

The next step was to resolve. They resolved that the tea should not be landed nor the duty paid, that it should go home in the same bottom that it came in, &c. &c. This was the same as resolving to destroy it, for as the ship had been compelled to come to the wharf, and was entered at the custom house, it could not, by law, be cleared out, without the duties being first paid, nor could the governor grant a permit for the vessel to pass Castle William, without a certificate from the custom house of such clearance, consistent with his duty. The body accordingly,

ordered a military guard to watch the ship every night until further orders. The consignees had been applied to, by the selectmen, to send the tea to England, they answered that they could not; for if they did, it would be forfeited by the acts of trade, and they should be liable to make good the loss to the East India company. Some of the consignees were mobbed, and all were obliged to fly to the castle, and there immure themselves. They petitioned the governor and council to take the property of the East India company under their protection. The council declined being concerned in it. The consignees then offered the body to store the tea under the care of the selectmen or a committee of the town of Boston, and to have no further concern in the matter until they could send to England, and receive further instructions from their principals. This was refused with disdain. The military guard was regularly kept in rotation till the eve of the twentieth day, when the duties must have been paid, the tea landed, or be liable to seizure; then the military guard was withdrawn, or rather omitted being posted, and a number of persons in disguise, forcibly entered the ships, (three being by this time arrived) split open the chests, and emptied all the tea, being of 10,000*l.* sterling value, into the dock, and perfumed the town with its fragrance. Another circumstance ought not to be omitted: the afternoon before the destruction of the tea, the body sent the owner of one of the ships to the governor to demand a pass; he answered, that he would as soon give a pass for that as any other vessel, if he had the proper certificate from the custom house; without which he could not give a pass for any, consistent with his duty. It was known that this would be the answer, when the message was sent, and it was with the utmost difficulty that

the body were kept together till the messenger returned. When the report was made, a shout was set up in the galleries and at the door, and the meeting immediately dispersed. The governor had, previous to this, sent a proclamation by the sheriff, commanding the body to disperse; they permitted it to be read, and answered it with a general hiss. These are the facts, as truly and fairly stated, as I am able to state them. The ostensible reason for this conduct, was the tea's being subject to the three-penny duty. Let us take the advocates for this transaction upon their own principle, and admit the duty to be unconstitutional, and see how the argument stands. Here is a cargo of tea subject upon its being entered and landed, to a duty of three-pence per pound, which is paid by the East India company or by their factors, which amounts to the same thing. Unless we purchase the tea, we shall never pay the duty; if we purchase it, we pay the three-pence included in the price: therefore, lest we should purchase it, we have a right to destroy it. A flimsy pretext! and either supposes the people destitute of virtue, or that their purchasing the tea was a matter of no importance to the community; but even this gauze covering is stript off, when we consider that the Boston merchants, and some who were active at the body meeting, were every day importing from England, large quantities of tea subject to the same duty and vending it unmolested; and at this time had orders lying in their correspondent's hands, to send them considerable quantities of tea, in case the East-India company should not send it themselves.

When the news of this transaction arrived in England, and it was considered in what manner almost every other regulation of trade had been

evaded by artifice, and when artifice could no longer serve, recourse was had to violence; the British lion was roused. The crown lawyers were called upon for the law; they answered, high treason. Had a Cromwell, whom some amongst us deify and imitate in all his imitable perfections, had the guidance of the national ire, unless compensation had been made to the sufferers immediately upon its being demanded, your proud capital had been levelled with the dust; not content with that, rivers of blood would have been shed to make atonement for the injured honor of the nation. It was debated whether to attaint the principals of treason. We have a gracious king upon the throne; he felt the resentment of a man, softened by the relentings of a parent. The bowels of our mother country yearned towards her refractory, obstinate child.

It was determined to consider the offence in a milder light, and to compel an indemnification for the sufferers, and prevent the like for the future, by such means as would be mild, compared with the insult to the nation, or severe, as our future conduct should be; that was to depend upon us. Accordingly the blockade act was passed, and had an act of justice been done in indemnifying the sufferers, and an act of loyalty in putting a stop to seditious practices, our port had long since been opened. This act has been called unjust, because it involves the innocent in the same predicament with the guilty; but it ought to be considered, that our newspapers had announced to the world, that several thousands attended those body meetings, and it did not appear that there was one dissentient, or any protest entered. I do not know how a person could expect distinction, in such a case, if he neglected to distinguish himself. When the noble lord proposed it in the house of commons,

he called upon all the members present, to mention a better method of obtaining justice in this case; scarce one denied the necessity of doing something, but none could mention a more eligible way. Even ministerial opposition was abashed. If any parts of the act strike us, like the severity of a master, let us coolly advert to the aggravated insult, and perhaps we shall wonder at the lenity of a parent. After this transaction, all parties seem to have lain upon their oars, waiting to see what parliament would do. When the blockade act arrived, many and many were desirous of paying for the tea immediately, and some who were guiltless of the crime, offered to contribute to the compensation; but our leading whigs must still rule the roost, and that inauspicious influence that had brought us hitherto, plunged us still deeper in misery. The whigs saw their ruin connected with a compliance with the terms of opening the port, as it would furnish a convincing proof of the wretchedness of their policy in the destruction of the tea, and they might justly have been expected to pay the money demanded themselves, and set themselves industriously to work to prevent it, and engage the other colonies to espouse their cause.

This was a crisis too important and alarming to the province to be neglected by its friends. A number of as respectable persons as any in this province, belonging to Boston, Cambridge, Salem and Marblehead, now came forward, publicly to disavow the proceedings of the whigs, to do justice to the much injured character of Mr. Hutchinson, and to strengthen his influence at the court of Great Britain, where he was going to receive the well deserved plaudit of his sovereign, that he might be able to obtain a repeal or some mitigation of that act, the terms of which they foresaw, the perverseness of the

whigs would prevent a compliance with. This was done by several addresses, which were subscribed by upwards of two hundred persons, and would have been by many more, had not the sudden embarkation of Mr. Hutchinson prevented it. The justices of the court of common pleas and general sessions of the peace for the county of Plymouth, sent their address to him in England. There were some of almost all orders of men among these addressers, but they consisted principally of men of property, large family connections, and several were independent in their circumstances, and lived wholly upon the income of their estates. Some indeed might be called partizans; but a very considerable proportion were persons that had of choice kept themselves at a distance from the political vortex; had beheld the competition of the whigs and tories without any emotion, while the community remained safe; had looked down on the political dance in its various mazes and intricacies, and saw one falling, another rising, rather as a matter of amusement; but when they saw the capital of the province upon the point of being sacrificed by political cunning, it called up all their feelings.

Their motives were truly patriotic. Let us now attend to the ways and means by which the whigs prevented these exertions producing such effects. Previous to this, a new, and until lately, unheard of, mode of opposition had been devised, said to be the invention of the fertile brain of one of our party agents, called a committee of correspondence. This is the foulest, subtlest, and most venomous serpent that ever issued from the eggs of sedition. These committees generally consist of the highest whigs, or at least there is some high whig upon them, that is the ruling spirit of the whole. They are commonly

appointed at thin town meetings, or if the meetings happen to be full, the moderate men seldom speak or act at all, when this sort of business comes on. They have been by much too modest. Thus the meeting is often prefaced with, "at a full town meeting," and the several resolves headed with nem. con. with strict truth, when in fact, but a small proportion of the town have had a hand in the matter. It is said that the committee for the town of Boston was appointed for a special purpose, and that their commission long since expired. However that may be, these committees when once established, think themselves amenable to none, they assume a dictatorial style, and have an opportunity under the apparent sanction of their several towns, of clandestinely wreaking private revenge on individuals, by traducing their characters, and holding them up as enemies to their country, wherever they go, as also of misrepresenting facts and propagating sedition through the country. Thus, a man of principle and property, in travelling through the country, would be insulted by persons, whose faces he had never before seen; he would often feel the smart without suspecting the hand that administered the blow. These committees, as they are not known in law, and can derive no authority from thence, lest they should not get their share of power, sometimes engross it all; they frequently erect themselves into a tribunal, where the same persons are at once legislators, accusers, witnesses, judges, and jurors, and the mob the executioners. The accused has no day in court, and the execution of the sentence is the first notice he receives. This is the channel through which liberty matters have been chiefly conducted the summer and fall past. This accounts for the same distempers breaking out in different parts of the province, at one and the same

time, which might be attributed to something supernatural, by those that were unacquainted with the secret conductors of the infection. It is chiefly owing to these committees, that so many respectable persons have been abused, and forced to sign recantations and resignations; that so many persons, to avoid such reiterated insults, as are more to be deprecated by a man of sentiment than death itself, have been obliged to quit their houses, families, and business, and fly to the army for protection; that husband has been separated from wife, father from son, brother from brother, the sweet intercourse of conjugal and natural affection interrupted, and the unfortunate refugee forced to abandon all the comforts of domestic life. My countrymen, I beg you to pause and reflect on this conduct. Have not these people, that are thus insulted, as good a right to think and act for themselves in matters of the last importance, as the whigs? Are they not as closely connected with the interest of their country as the whigs? Do not their former lives and conversations appear to have been regulated by principle, as much as those of the whigs? You must answer, yes. Why, then, do you suffer them to be cruelly treated for differing in sentiment from you? Is it consistent with that liberty you profess? Let us wave the consideration of right and liberty, and see if this conduct can be reconciled to good policy. Do you expect to make converts by it? Persecution has the same effect in politics, that it has in religion; it confirms the sectary. Do you wish to silence them, that the inhabitants of the province may appear unanimous? The maltreatment they receive, for differing from you, is undeniable evidence that we are not unanimous. It may not be amiss to consider, that this is a changeable world, and time's rolling

wheel may ere long bring them uppermost; in that case I am sure you would not wish to have them fraught with resentment. It is astonishing, my friends, that those who are in pursuit of liberty, should ever suffer arbitrary power, in such an hideous form and squalid hue, to get a footing among them. I appeal to your good sense; I know you have it, and hope to penetrate to it, before I have finished my publications, notwithstanding the thick atmosphere that now envelopes it. But to return from my digression, the committee of correspondence represented the destruction of the tea in their own way; they represented those that addressed Gov. Hutchinson, as persons of no note or property, as mean, base wretches, and seekers that had been sacrificing their country in adulation of him. Whole nations have worshipped the rising, but if this be an instance, it is the only one of people's worshipping the setting sun. By this means the humane and benevolent, in various parts of the continent, were induced to advise us not to comply with the terms for opening our port, and engage to relieve us with their charities, from the distress that must otherwise fall upon the poor. Their charitable intentions ascend to heaven, like incense from the altar, in sweet memorial before the throne of God; but their donations came near proving fatal to the province. It encouraged the whigs to persevere in injustice, and has been the means of seducing many an honest man into the commission of a crime, that he did not suspect himself capable of being guilty of. What I have told you, is not the mere suggestions of a speculatist; there are some mistakes as to numbers, and there may be some as to time and place, partly owing to miscopying, and partly to my not always having had the books and papers necessary to greater

accuracy, at hand; but the relation of facts is in substance true, I had almost said, as holy writ. I do not ask you to take the truths of them from an anonymous writer. The evidence of most of them is within your reach; examine for yourselves. I promise that the benefit you will reap therefrom will abundantly pay you, for the trouble of the research; you will find I have faithfully unriddled the whole mystery of our political iniquity. I do not address myself to whigs or tories, but to the whole people. I know you well. You are loyal at heart, friends to good order, and do violence to yourselves in harboring, one moment, disrespectful sentiments towards Great Britain, the land of our forefathers' nativity, and sacred repository of their bones; but you have been most insidiously induced to believe that Great Britain is rapacious, cruel, and vindictive, and envies us the inheritance purchased by the sweat and blood of our ancestors. Could that thick mist, that hovers over the land and involves in it more than Egyptian darkness, be but once dispelled, that you might see our Sovereign, the provident father of all his people, and Great Britain a nursing mother to these colonies, as they really are, long live our gracious king, and happiness to Britain, would resound from one end of the province to the other.

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the Province of Massachusetts Bay,

January 9, 1775.

MY DEAR COUNTRYMEN,

SOME of you may perhaps suspect that I have been wantonly scattering firebrands, arrows, and death, to gratify a malicious and revengeful disposition. The truth is this. I had seen many excellent detached pieces, but could see no pen at work to trace our calamity to its source, and point out the many adventitious aids, that conspired to raise it to its present height, though I impatiently expected it, being fully convinced that you wait only to know the true state of facts, to rectify whatever is amiss in the province, without any foreign assistance. Others may be induced to think, that I grudge the industrious poor of Boston their scantlings of charity. I will issue a brief in their favour. The opulent, be their political sentiments what they may, ought to relieve them from their sufferings, and those who, by former donations, have been the innocent cause of protracting their sufferings, are under a tenfold obligation to assist them now; and at the same time to make the most explicit declarations, that they did not intend to promote, nor ever will join in rebellion. Great allowances are to be made for the crossings, windings, and tergiversations of a politician; he is a cunning animal, and as government is said to be founded in opinion, his tricks may be a part of the

arcana imperii. Had our politicians confined themselves within any reasonable bounds, I never should have molested them; but when I became satisfied, that many innocent, unsuspecting persons were in danger of being seduced to their utter ruin, and the province of Massachusetts Bay in danger of being drenched with blood and carnage, I could restrain my emotions no longer; and having once broke the bands of natural reserve, was determined to probe the sore to the bottom, though I was sure to touch the quick. It is very foreign from my intentions to draw down the vengeance of Great Britain upon the whigs; they are too valuable a part of the community to lose, if they will permit themselves to be saved. I wish nothing worse to the highest of them, than that they may be deprived of their influence, till such time as they shall have changed their sentiments, principles, and measures.

Sedition has already been marked through its zigzag path to the present times. When the statute for regulating the government arrived, a match was put to the train, and the mine, that had been long forming, sprung, and threw the whole province into confusion and anarchy. The occurrencies of the summer and autumn past are so recent and notorious, that a particular detail of them is unnecessary. Suffice it to say, that every barrier that civil government had erected for the security of property, liberty and life, was broken down, and law, constitution and government trampled under foot by the rudest invaders. I shall not dwell upon these harsh notes much longer. I shall yet become an advocate for the leading whigs; much must be allowed to men, in their situation, forcibly actuated by the chagrin of disappointment, the fear of punishment, and the fascination of hope at the same

time.

Perhaps the whole story of empire does not furnish another instance of a forcible opposition to government, with so much apparent and little real cause, with such apparent probability without any possibility of success. The stamp-act gave the alarm. The instability of the public councils from the Greenvillian administration to the appointment of the Earl of Hillsborough to the American department, afforded as great a prospect of success, as the heavy duties imposed by the stamp-act, did a colour for the opposition. It was necessary to give the history of this matter in its course, offend who it would, because those acts of government, that are called the greatest grievances, became proper and necessary, through the misconduct of our politicians, and the justice of Great Britain towards us, could not be made apparent without first pointing out that. I intend to consider the acts of the British government, which are held up as the principal grievances, and inquire whether Great Britain is chargeable with injustice in any one of them; but must first ask your attention to the authority of parliament. I suspect many of our politicians are wrong in their first principle, in denying that the constitutional authority of parliament extends to the colonies; if so, it must not be wondered at, that their whole fabric is so ruinous. I shall not travel through all the arguments that have been adduced, for and against this question, but attempt to reduce the substance of them to a narrow compass, after having taken a cursory view of the British constitution.

The security of the people from internal rapacity and violence, and from foreign invasion, is the end and design of government. The simple forms of

government are monarchy, aristocracy, and democracy; that is, where the authority of the state is vested in one, a few, or the many. Each of these species of government has advantages peculiar to itself, and would answer the ends of government, were the persons intrusted with the authority of the state, always guided, themselves, by unerring wisdom and public virtue; but rulers are not always exempt from the weakness and depravity which make government necessary to society. Thus monarchy is apt to rush headlong into tyranny, aristocracy to beget faction, and multiplied usurpation, and democracy, to degenerate into tumult, violence, and anarchy. A government formed upon these three principles, in due proportion, is the best calculated to answer the ends of government, and to endure. Such a government is the British constitution, consisting of king, lords and commons, which at once includes the principal excellencies, and excludes the principal defects of the other kinds of government. It is allowed, both by Englishmen and foreigners, to be the most perfect system that the wisdom of ages has produced. The distributions of power are so just, and the proportions so exact, as at once to support and controul each other. An Englishman glories in being subject to, and protected by such a government. The colonies are a part of the British empire. The best writers upon the law of nations tell us, that when a nation takes possession of a distant country, and settles there, that country, though separated from the principal establishment, or mother country, naturally becomes a part of the state, equal with its ancient possessions. Two supreme or independent authorities cannot exist in the same state. It would be what is called *imperium in imperio*, the height of political absurdity. The analogy

between the political and human body is great. Two independent authorities in a state would be like two distinct principles of volition and action in the human body, dissenting, opposing, and destroying each other. If, then, we are a part of the British empire, we must be subject to the supreme power of the state, which is vested in the estates of parliament, notwithstanding each of the colonies have legislative and executive powers of their own, delegated, or granted to them for the purposes of regulating their own internal police, which are subordinate to, and must necessarily be subject to the checks, controul, and regulation of the supreme authority.

This doctrine is not new, but the denial of it is. It is beyond a doubt, that it was the sense both of the parent country, and our ancestors, that they were to remain subject to parliament. It is evident from the charter itself; and this authority has been exercised by parliament, from time to time, almost ever since the first settlement of the country, and has been expressly acknowledged by our provincial legislatures. It is not less our interest, than our duty, to continue subject to the authority of parliament, which will be more fully considered hereafter. The principal argument against the authority of parliament, is this; the Americans are entitled to all the privileges of an Englishman; it is the privilege of an Englishman to be exempt from all laws, that he does not consent to in person, or by representative. The Americans are not represented in parliament, and therefore are exempt from acts of parliament, or in other words, not subject to its authority. This appears specious; but leads to such absurdities as demonstrate its fallacy. If the colonies are not subject to the authority of parliament, Great Britain and the

colonies must be distinct states, as completely so, as England and Scotland were before the union, or as Great Britain and Hanover are now. The colonies in that case will owe no allegiance to the imperial crown, and perhaps not to the person of the king, as the title to the crown is derived from an act of parliament, made since the settlement of this province, which act respects the imperial crown only. Let us wave this difficulty, and suppose allegiance due from the colonies to the person of the king of Great Britain. He then appears in a new capacity, of king of America, or rather in several new capacities, of king of Massachusetts, king of Rhode-Island, king of Connecticut, &c. &c. For if our connexion with Great Britain by the parliament be dissolved, we shall have none among ourselves, but each colony become as distinct from the others, as England was from Scotland, before the union. Some have supposed that each state, having one and the same person for its king, is a sufficient connection. Were he an absolute monarch, it might be; but in a mixed government, it is no union at all. For as the king must govern each state, by its parliament, those several parliaments would pursue the particular interest of its own state; and however well disposed the king might be to pursue a line of interest, that was common to all, the checks and controul that he would meet with, would render it impossible. If the king of Great Britain has really these new capacities, they ought to be added to his titles; and another difficulty will arise, the prerogatives of these new crowns have never been defined or limited. Is the monarchical part of the several provincial constitutions to be nearer or more remote from absolute monarchy, in an inverted ratio to each one's approaching to, or receding from a republic? But let

us suppose the same prerogatives inherent in the several American crowns, as are in the imperial crown of Great Britain, where shall we find the British constitution, that we all agree we are entitled to? We shall seek for it in vain in our provincial assemblies. They are but faint sketches of the estates of parliament. The houses of representatives, or Burgesses, have not all the powers of the house of commons; in the charter governments they have no more than what is expressly granted by their several charters. The first charters granted to this province did not empower the assembly to tax the people at all. Our council boards are as destitute of the constitutional authority of the house of lords, as their several members are of the noble independence, and splendid appendages of peerage. The house of peers is the bulwark of the British constitution, and through successive ages, has withstood the shocks of monarchy, and the sappings of democracy, and the constitution gained strength by the conflict. Thus the supposition of our being independent states, or exempt from the authority of parliament, destroys the very idea of our having a British constitution. The provincial constitutions, considered as subordinate, are generally well adapted to those purposes of government, for which they were intended; that is, to regulate the internal police of the several colonies; but have no principle of stability within themselves; they may support themselves in moderate times, but would be merged by the violence of turbulent ones, and the several colonies become wholly monarchical, or wholly republican, were it not for the checks, controuls, regulations, and supports of the supreme authority of the empire. Thus the argument, that is drawn from their first principle of our being entitled to English

liberties, destroys the principle itself, it deprives us of the bill of rights, and all the benefits resulting from the revolution of English laws, and of the British constitution.

Our patriots have been so intent upon building up American rights, that they have overlooked the rights of Great Britain, and our own interest. Instead of proving that we were entitled to privileges, that our fathers knew our situation would not admit us to enjoy, they have been arguing away our most essential rights. If there be any grievance, it does not consist in our being subject to the authority of parliament, but in our not having an actual representation in it. Were it possible for the colonies to have an equal representation in parliament, and were refused it upon proper application, I confess I should think it a grievance; but at present it seems to be allowed, by all parties, to be impracticable, considering the colonies are distant from Great Britain a thousand transmarine leagues. If that be the case, the right or privilege, that we complain of being deprived of, is not withheld by Britain, but the first principles of government, and the immutable laws of nature, render it impossible for us to enjoy it. This is apparently the meaning of that celebrated passage in Governor Hutchinson's letter, that rang through the continent, viz: There must be an abridgment of what is called English liberties. He subjoins, that he had never yet seen the projection, whereby a colony, three thousand miles distant from the parent state, might enjoy all the privileges of the parent state, and remain subject to it, or in words to that effect. The obnoxious sentence, taken detached from the letter, appears very unfriendly to the colonies; but considered in connection with the other parts of the letter, is but a necessary result from our

situation. Allegiance and protection are reciprocal. It is our highest interest to continue a part of the British empire; and equally our duty to remain subject to the authority of parliament. Our own internal police may generally be regulated by our provincial legislatures, but in national concerns, or where our own assemblies do not answer the ends of government with respect to ourselves, the ordinances or interposition of the great council of the nation is necessary. In this case, the major must rule the minor. After many more centuries shall have rolled away, long after we, who are now bustling upon the stage of life, shall have been received to the bosom of mother earth, and our names are forgotten, the colonies may be so far increased as to have the balance of wealth, numbers and power, in their favour, the good of the empire make it necessary to fix the seat of government here; and some future George, equally the friend of mankind, with him that now sways the British sceptre, may cross the Atlantic, and rule Great Britain, by an American parliament.

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the Province of Massachusetts Bay,

January 16, 1775.

MY DEAR COUNTRYMEN,

HAD a person, some fifteen years ago, undertaken to prove that the colonies were a part of the British empire or dominion, and as such, subject to the authority of the British parliament, he would have acted as ridiculous a part, as to have undertaken to prove a self-evident proposition. Had any person denied it, he would have been called a fool or madman. At this wise period, individuals and bodies of men deny it, notwithstanding in doing it they subvert the fundamentals of government, deprive us of British liberties, and build up absolute monarchy in the colonies; for our charters suppose regal authority in the grantor; if that authority be derived from the British crown, it pre-supposes this territory to have been a part of the British dominion, and as such subject to the imperial sovereign; if that authority was vested in the person of the king, in a different capacity, the British constitution and laws are out of the question, and the king must be absolute as to us, as his prerogatives have never been circumscribed. Such must have been the sovereign authority of the several kings, who have granted American charters, previous to the several grants; there is nothing to detract from it, at this time, in those colonies that are destitute of charters, and the charter governments must severally revert to absolute monarchy, as their charters may happen to be forfeited by the grantees not fulfilling the conditions of them, as every charter contains an express or implied condition.

It is curious indeed to trace the denial and oppugnation to the supreme authority of the state. When the stamp-act was made, the authority of parliament to impose internal taxes was denied; but their right to impose external ones, or in other words, to lay duties upon goods and merchandize was admitted. When the act was made imposing duties upon tea, &c. a new distinction was set up, that the parliament had a right to lay duties upon merchandize for the purpose of regulating trade, but not for the purpose of raising a revenue: that is, the parliament had good right and lawful authority to lay the former duty of a shilling on the pound, but had none to lay the present duty of three pence. Having got thus far safe, it was only taking one step more to extricate ourselves entirely from their fangs, and become independant states, that our patriots most heroically resolved upon, and flatly denied that parliament had a right to make any laws whatever, that should be binding upon the colonies. There is no possible medium between absolute independence, and subjection to the authority of parliament. He must be blind indeed that cannot see our dearest interest in the latter, notwithstanding many pant after the former. Misguided men! could they once overtake their wish, they would be convinced of the madness of the pursuit.

My dear countrymen, it is of the last importance that we settle this point clearly in our minds; it will serve as a sure test, certain criterion and invariable standard to distinguish the friends from the enemies of our country, patriotism from sedition, loyalty from rebellion. To deny the supreme authority of the state, is a high misdemeanor, to say no worse of it; to oppose it by force is an overt act of treason, punishable by confiscation of estate, and most

ignominious death. The realm of England is an appropriate term for the ancient realm of England, in contradistinction to Wales and other territories, that have been annexed to it. These as they have been severally annexed to the crown, whether by conquest or otherwise, became a part of the empire, and subject to the authority of parliament, whether they send members to parliament or not, and whether they have legislative powers of their own or not.

Thus Ireland, who has perhaps the greatest possible subordinate legislature, and sends no members to the British parliament, is bound by its acts, when expressly named. Guernsey and Jersey are no part of the realm of England, nor are they represented in parliament, but are subject to its authority: and, in the same predicament are the American colonies, and all the other dispersions of the empire. Permit me to request your attention to this subject a little longer; I assure you it is as interesting and important, as it is dry and unentertaining.

Let us now recur to the first charter of this province, and we shall find irresistible evidence, that our being part of the empire, subject to the supreme authority of the state, bound by its laws and entitled to its protection, were the very terms and conditions by which our ancestors held their lands, and settled the province. Our charter, like all other American charters, are under the great seal of England; the grants are made by the king, for his heirs and *successors*; the several tenures to be of the king, his heirs and *successors*; in like manner are the reservations. It is apparent the king acted in his royal capacity, as king of England, which necessarily supposes the territory granted, to be a part of the English dominions, holden of the crown of England.

The charter, after reciting several grants of the territory to sir Henry Roswell and others, proceeds to incorporation in these words: "And for as much as the good and prosperous success of the plantations of the said parts of New England aforesaid, intended by the said sir Henry Roswell and others, to be speedily set upon, cannot but chiefly depend, next under the blessing of almighty God, and the support of our royal authority, upon the good government of the same, to the end that the *affairs of business*, which from time to time shall happen and arise concerning the said lands and the plantations of the same may be the better managed and ordered, we have further hereby, of our especial grace, certain knowledge and mere motion given, granted and confirmed, and for us, our heirs and successors, do give, grant and confirm unto our said trusty and well beloved subjects, sir Henry Roswell, &c. and all such others as shall hereafter be admitted and made free of *the company and society hereafter mentioned*, shall from time to time and at all times, forever hereafter, be by virtue of these presents, *one body corporate, politic in fact and name by the name of the governor and company of the Massachusetts Bay, in New England*; and them by the name of the governor and company of the Massachusetts Bay, in New England, one body politic and corporate in deed, fact and name. We do for us our heirs and successors make, ordain, constitute and confirm by these presents, and that by that name they shall have perpetual succession, and that by that name they and their successors shall be capable and enabled as well *to implead and to be impleaded, and to prosecute, demand and answer and be answered unto all and singular suits, causes, quarrels and actions of what kind or nature soever; and also to have, take, possess, acquire and purchase, any lands,*

tenements and hereditaments, or any goods or chattels, the same to lease, grant, demise, aliene, bargain, sell and dispose of as our liege people of this our realm of England, or any other corporation or body politic of the same may do." I would beg leave to ask one simple question, whether this looks like a distinct state or independent empire? Provision is then made for electing a governor, deputy governor, and eighteen assistants. After which, is this clause: "We do for us, our heirs and successors, give and grant to the said governor and company, and their successors, that the governor or in his absense the deputy governor of the said company, for the time being, and such of the assistants or freemen of the said company as shall be present, or the greater number of them so assembled, whereof the governor or deputy governor and six of the assistants, at the least to be seven, shall have full power and authority to choose, nominate and appoint such and so many others as they shall think fit, and shall be willing to accept the same, to be free of the said company and body, and them into the same to admit and to elect and constitute such officers as they shall think fit and requisite for the ordering, managing and dispatching of the affairs of the said governor and company and their successors, and to make *laws and ordinances for the good and welfare of the said company*, and for the government and ordering of the said lands and plantations, and the people inhabiting and to inhabit the same, as to them from time to time shall be thought meet: *So as such laws and ordinances be not contrary or repugnant to the laws and statutes of this our realm of England*."

Another clause is this, "And for their further encouragement, of our especial grace and favor, we do by these presents, for us, our heirs, and successors, yield and grant to the said governor and

company and their successors, and every of them, their factors and assigns, that they and every of them shall be free and quit from all taxes, subsidies and customs in New England for the space of seven years, and from all taxes and impositions for the space of twenty-one years, upon all goods and merchandize, at any time or times hereafter, either upon importation thither, or exportation from thence into our realm of England, or into other of our dominions, by the said governor and company and their successors, their deputies, factors and assigns, &c."

The exemption from taxes for seven years in one case, and twenty one years in the other, plainly indicates that after their expiration, this province would be liable to taxation. Now I would ask by what authority those taxes were to be imposed? It could not be by the governor and company, for no such power was delegated or granted to them; and besides it would have been absurd and nugatory to exempt them from their own taxation, supposing them to have had the power, for they might have exempted themselves. It must therefore be by the king or parliament; it could not be by the king alone, for as king of England, the political capacity in which he granted the charter, he had no such power, exclusive of the lords and commons, consequently it must have been by the parliament. This clause in the charter is as evident a recognition of the authority of the parliament over this province, as if the words, "acts of parliament," had been inserted, as they were in the Pennsylvania charter. There was no session of parliament after the grant of our charter until the year 1640. In 1642 the house of commons passed a resolve, "that for the better advancement of the plantations in New England, and the encouragement of the planters to proceed in their undertaking, their

exports and imports should be freed and discharged from all customs, subsidies, taxations and duties until the further order of the house;" which was gratefully received and recorded in the archives of our predecessors. This transaction shews very clearly in what sense our connection with England was then understood. It is true, that in some arbitrary reigns, attempts were made by the servants of the crown to exclude the two houses of parliament, from any share of the authority over the colonies; they also attempted to render the king absolute in England; but the parliament always rescued the colonies, as well as England from such attempts.

I shall recite but one more clause of this charter, which is this, "And further our will and pleasure is, and we do hereby for us, our heirs and successors, ordain, declare and grant to the said governor and company, and their successors, that all and every of the subjects of us, our heirs and successors which shall go to and inhabit within the said land and premises hereby mentioned to be granted, and every of their children which shall happen to be born there, or on the seas in going thither, or returning from thence, shall have and enjoy *all liberties and immunities of free and natural subjects, within any of the dominions* of us, our heirs or successors, to all intents, constructions and purposes whatsoever, as if they and every of them were born within the realm of England." It is upon this, or a similar clause in the charter of William and Mary that our patriots have built up the stupendous fabric of American independence. They argue from it a total exemption from parliamentary authority, because we are not represented in parliament.

I have already shewn that the supposition of our

being exempt from the authority of parliament, is pregnant with the grossest absurdities. Let us now consider this clause in connection with the other parts of the charter. It is a rule of law, founded in reason and common sense, to construe each part of an instrument, so as the whole may hang together, and be consistent with itself. If we suppose this clause to exempt us from the authority of parliament, we must throw away all the rest of the charter, for every other part indicates the contrary, as plainly as words can do it; and what is still worse, this clause becomes *felo de se*, and destroys itself; for if we are not annexed to the crown, we are aliens, and no charter, grant, or other act of the crown can naturalize us or entitle us to the liberties and immunities of Englishmen. It can be done only by act of parliament. An alien is one born in a strange country out of the allegiance of the king, and is under many disabilities though residing in the realm; as Wales, Jersey, Guernsey, Ireland, the foreign plantations, &c. were severally annexed to the crown, they became parts of one and the same empire, the natives of which are equally free as though they had been born in that territory which was the ancient realm. As our patriots depend upon this clause, detached from the charter, let us view it in that light. If a person born in England removes to Ireland and settles there, he is then no longer represented in the British parliament, but he and his posterity are, and will ever be subject to the authority of the British parliament. If he removes to Jersey, Guernsey, or any other parts of the British dominions that send no members to parliament, he will still be in the same predicament. So that the inhabitants of the American colonies do in fact enjoy all the liberties and immunities of natural born

subjects. We are entitled to no greater privileges than those that are born within the realm; and they can enjoy no other than we do, when they reside out of it. Thus, it is evident that this clause amounts to no more than the royal assurance, that we are a part of the British empire; are not aliens, but natural born subjects; and as such, bound to obey the supreme power of the state, and entitled to protection from it. To avoid prolixity, I shall not remark particularly upon other parts of this charter, but observe in general, that whoever reads it with attention, will meet with irresistible evidence in every part of it, that our being a part of the English dominions, subject to the English crown, and within the jurisdiction of parliament, were the terms upon which our ancestors settled this colony, and the very tenures by which they held their estates.

No lands within the British dominions are perfectly allodial; they are held mediately or immediately of the king, and upon forfeiture, revert to the crown. My dear countrymen, you have many of you been most falsely and wickedly told by our patriots, that Great Britain was meditating a land tax, and seeking to deprive us of our inheritance; but had all the malice and subtilty of men and devils been united, a readier method to effect it could not have been devised, than the late denials of the authority of parliament, and forcible oppositions to its acts. Yet, this has been planned and executed chiefly by persons of desperate fortunes.

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the Province of Massachusetts Bay,

January 23, 1775.

MY DEAR COUNTRYMEN,

IF we carry our researches further back than the emigration of our ancestors, we shall find many things that reflect light upon the object we are in quest of. It is immaterial when America was first discovered or taken possession of by the English. In 1602 one Gosnold landed upon one of the islands, called Elizabeth islands, which were so named in honor of queen Elizabeth, built a fort, and projected a settlement; his men were discouraged, and the project failed. In 1606, king James granted all the continent from 34 to 45 degrees, which he divided into two colonies, viz. the southern or Virginia, to certain merchants at London, the northern or New England, to certain merchants at Plymouth in England. In 1607, some of the patentees of the northern colony began a settlement at Sogadahoc; but the emigrants were disheartened after the trial of one winter, and that attempt failed of success. Thus this territory had not only been granted by the crown

for purposes of colonization, which are to enlarge the empire or dominion of the parent state, and to open new sources of national wealth; but actual possession had been taken by the grantees, previous to the emigration of our ancestors, or any grant to them. In 1620, a patent was granted to the adventurers for the northern colony, incorporating them by the name of *the council for the affairs of New Plymouth*. From this company of merchants in England, our ancestors derived their title to this territory. The tract of land called Massachusetts, was purchased of this company, by sir Henry Roswell and associates; their deed bears date March 19th, 1627. In 1628 they obtained a charter of incorporation, which I have already remarked upon. The liberties, privileges and franchises, granted by this charter, do not perhaps exceed those granted to the city of London and other corporations within the realm. The legislative power was very confined; it did not even extend to levying taxes of any kind; that power was however assumed under this charter, which by law worked a forfeiture; and for this among other things, in the reign of Charles the second, the charter was adjudged forfeited, and the franchises seized into the king's hands. This judgment did not affect our ancestors' title to their lands, that were not derived originally from the charter, though confirmed by it, but by purchase from the council at Plymouth, who held immediately under the crown. Besides, our ancestors had now reduced what before was a naked right to possession, and by persevering through unequalled toils, hardships and dangers, at the approach of which other emigrants had fainted, rendered New England a very valuable acquisition both to the crown and nation. This was highly meritorious, and ought not to be overlooked in adjusting the present

unhappy dispute; but our patriots would deprive us of all the merit, both to the crown and nation, by severing us from both. After the revolution, our ancestors petitioned the parliament to restore the charter. A bill for that purpose passed the house of commons, but went no further. In consequence of another petition, king William and queen Mary granted our present charter, for uniting and incorporating the Massachusetts, New Plymouth, and several other territories into one province. More extensive powers of legislation, than those contained in the first charter, were become necessary, and were granted; and the form of the legislature made to approach nearer to the form of the supreme legislature. The powers of legislation are confined to local or provincial purposes and further restricted by these words, viz. *So as the same be not repugnant or contrary to the laws of this our realm of England.* Our patriots have made many nice distinctions and curious refinements, to evade the force of these words; but after all, it is impossible to reconcile them to the idea of an independent state, as it is to reconcile disability to omnipotence. The provincial power of taxation is also restricted to provincial purposes, and allowed to be exercised over such only as are inhabitants or proprietors within the province. I would observe here, that the granting subordinate powers of legislation, does not abridge or diminish the powers of the higher legislatures; thus we see corporations in England and the several towns in this province vested with greater or lesser powers of legislation, without the parliament, in one case, or the general court in the other, being restrained, from enacting those very laws, that fall within the jurisdiction of the several corporations. Had our present charter been conceived in such equivocal

terms, as that it might be construed as restraining the authority of parliament, the uniform usage ever since it passed the seal, would satisfy us that its intent was different. The parliament, in the reign when it was granted, long before and in every reign since, has been making statutes to extend to the colonies, and those statutes have been as uniformly submitted to as authoritative, by the colonies, till within ten or a dozen years. Sometimes acts of parliament have been made, and sometimes have been repealed in consequence of petitions from the colonies. The provincial assemblies often refer to acts of parliament in their own, and have sometimes made acts to aid their execution. It is evident that it was the intention of their majesties, to grant subordinate powers of legislation, without impairing or diminishing the authority of the supreme legislature. Had there been any words in the charter, that precluded that construction, or did the whole taken together contradict it, lawyers would tell us, that the king was deceived in his grant, and the patentees took no estate by it, because the crown can neither alienate a part of the British dominions, nor impair the supreme power of the empire. I have dwelt longer on this subject, than I at first intended, and not by any means done it justice, as to avoid prolix narratives and tedious deduction, I have omitted perhaps more than I have adduced, that evinces the truth of the position, that we are a part of the British dominions, and subject to the authority of parliament. The novelty of the contrary tenets, will appear by extracting a part of a pamphlet, published in 1764, by a Boston gentleman, who was then the oracle of the whigs, and whose profound knowledge in the law and constitution is equalled but by few.

"I also lay it down as one of the first principles from

whence I intend to deduce the civil rights of the British colonies, that all of them are subject to, and dependent on Great Britain; and that therefore as over subordinate governments, the parliament of Great Britain has an undoubted power and lawful authority to make acts for the general good, that by naming them, shall and ought to be equally binding, as upon the subjects of Great Britain within the realm. Is there the least difference, as to the consent of the colonists, whether taxes and impositions are laid on their trade, and other property by the crown alone, or by the parliament? As it is agreed on all hands, the crown alone cannot impose them, we should be justifiable in refusing to pay them, *but must and ought to yield obedience to an act of parliament, though erroneous, till repealed*."

"It is a maxim, that the king can do no wrong; and every good subject is bound to believe his king is not inclined to do any. We are blessed with a prince who has given abundant demonstrations, that in all his actions, he studies the good of his people, and the true glory of his crown, which are inseperable. It would therefore be the highest degree of impudence and disloyalty, to imagine that the king, at the head of his parliament, could have any but the most pure and perfect intentions of justice, goodness and truth, that human nature is capable of. All this I say and believe of the king and parliament, in all their acts; even in that which so nearly affects the interests of the colonists; and that a most perfect and ready obedience is to be yielded to it while it remains in force. The power of parliament is uncontroulable but by themselves, and we must obey. They only can repeal their own acts. There would be an end of all government, if one or a number of subjects, or

subordinate provinces should take upon them so far to judge of the justice of an act of parliament, as to refuse obedience to it. If there was nothing else to restrain such a step, prudence ought to do it, for forcibly resisting the parliament and the king's laws is high treason. Therefore let the parliament lay what burdens they please on us, we must, it is our duty to submit and patiently bear them, till they will be pleased to relieve us."

The Pennsylvania Farmer, who took the lead in explaining away the right of parliament to raise a revenue in America, speaking of regulating trade, tells us, that "he who considers these provinces as states distinct from the British empire, has very slender notions of justice, or of their interest; we are but parts of a whole, and therefore there must exist a power somewhere to preside, and preserve the connection in due order. This power is lodged in parliament, and we are as much dependant on Great Britain as a perfectly free people can be on another." He supposes that we are dependant in some considerable degree upon Great Britain; and that that dependance is nevertheless consistent with perfect freedom.

Having settled this point, let us reflect upon the resolves and proceedings of our patriots. We often read resolves denying the authority of parliament, which is the imperial sovereign, gilded over with professions of loyalty to the king, but the golden leaf is too thin to conceal the treason. It either argues profound ignorance or hypocritical cunning.

We find many unsuspecting persons prevailed on openly to oppose the execution of acts of parliament with force and arms. My friends, some of the persons

that beguiled you, could have turned to the chapter, page and section, where such insurrections are pronounced rebellion, by the law of the land; and had not their hearts been dead to a sense of justice, and steeled against every feeling of humanity, they would have timely warned you of your danger. Our patriots have sent us in pursuit of a mere *ignis fatuus*, a fascinating glare devoid of substance; and now when we find ourselves bewildered, with scarce one ray of hope to raise our sinking spirits, or stay our fainting souls, they conjure up phantoms more delusive and fleeting, if possible, than that which first led us astray. They tell us, we are a match for Great Britain. The twentieth part of the strength that Great Britain could exert, were it necessary, is more than sufficient to crush this defenceless province to atoms, notwithstanding all the vapouring of the disaffected here and elsewhere. They tell us the army is disaffected to the service. What pains have our wretched politicians not taken to attach them to it? The officers conceive no very favourable opinion of the cause of the whigs, from the obloquy with which their General hath been treated, in return for his humanity, nor from the infamous attempts to seduce the soldiers from his majesty's service. The policy of some of our patriots has been as weak and contemptible, as their motives are sordid and malevolent; for when they found their success, in corrupting the soldiery, did not answer their expectations, they took pains to attach them firmer to the cause they adhered to, by preventing the erecting of barracks for their winter quarters, by which means many contracted diseases, and some lives were lost, from the unwholesome buildings they were obliged to occupy; and, as though some stimulus was still wanting, some provocation to

prevent human nature revolting in the hour of battle, they deprived the soldiers of a gratification never denied to the brute creation; straw to lie on. I do not mention this conduct to raise the resentment of the troops; it has had its effect already; and it is proper you should know it; nor should I have blotted paper in relating facts so mortifying to the pride of man, had it not been basely suggested that there would be a defection should the army take the field. Those are matters of small moment, compared to another, which is the cause they are engaged in. It is no longer a struggle between whigs and tories, whether these or those shall occupy posts of honour, or enjoy the emoluments of office, nor is it now whether this or the other act of parliament shall be repealed. The army is sent here to decide a question, intimately connected with the honour and interest of the nation, no less than whether the colonies shall continue a part of, or be for ever dismembered from the British empire. It is a cause in which no honest American can wish our politicians success, though it is devoutly to be wished, that their discomfiture may be effected without recourse being had to the *ultima ratio*—the sword. This, our wretched situation, is but the natural consequence of denying the authority of parliament, and forcibly opposing its acts.

Sometimes we are amused with intimations that Holland, France or Spain, will make a diversion in our favour. These, equally with the others, are suggestions of despair. These powers have colonies of their own, and might not choose to set a bad example, by encouraging the colonies of any other state to revolt. The Dutch have too much money in the English funds, and are too much attached to their money to espouse our quarrel. The French and Spaniards have not yet forgot the drubbing they

received from Great Britain last war; and all three fear to offend that power which our politicians would persuade us to despise.

Lastly, they tell us that the people in England will take our part, and prevent matters from coming to extremity. This is their fort, where, when driven from every other post, they fly for refuge.

Alas, my friends! our congresses have stopped up every avenue that leads to that sanctuary. We hear, by every arrival from England, that it is no longer a ministerial, (if it ever was) but a national cause. My dear countrymen, I deal plainly with you. I never should forgive myself if I did not. Are there not eleven regiments in Boston? A respectable fleet in the harbour? Men of war stationed at every considerable port along the continent? Are there not three ships of the line sent here, notwithstanding the danger of the winter coast, with more than the usual complement of marines? Have not our congresses, county, provincial, and continental, instead of making advances for an accommodation, bid defiance to Great Britain? *He that runs may read.*

If our politicians will not be pursuaded from running against the thick bosses of the buckler, it is time for us to leave them to their fate, and provide for the safety of ourselves, our wives, our children, our friends, and our country.

I have many things to add, but must now take my leave, for this week, by submitting to your judgment whether there be not an absolute necessity of immediately protesting against all traitorous resolves, leagues, and associations, of bodies of men, that appear to have acted in a representative capacity. Had our congresses been accidental or

spontaneous meetings, the whole blame might have rested upon the individuals that composed them; but as they appear in the character of the people's delegates, is there not the utmost danger of the innocent being confounded with the guilty, unless they take care timely to distinguish themselves?

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the Province of Massachusetts Bay,

January 30, 1775.

MY DEAR COUNTRYMEN,

AS the oppugnation to the king in parliament tends manifestly to independence, and the colonies would soon arrive at that point, did not Great Britain check them in their career; let us indulge the idea, however extravagant and romantic, and suppose ourselves for ever separated from the parent state. Let us suppose Great Britain sinking under the violence of the shock, and overwhelmed by her ancient hereditary enemies; or what is more probable, opening new sources of

national wealth, to supply the deficiency of that which used to flow to her through American channels, and perhaps planting more loyal colonies in the new discovered regions of the south, still retaining her pre-eminence among the nations, though regardless of America.

Let us now advert to our own situation. Destitute of British protection, that impervious barrier, behind which, in perfect security, we have increased to a degree almost exceeding the bounds of probability, what other Britain could we look to when in distress? What succedaneum does the world afford to make good the loss? Would not our trade, navigation, and fishery, which no nation dares violate or invade, when distinguished by British colours, become the sport and prey of the maritime powers of Europe? Would not our maritime towns be exposed to the pillaging of every piratical enterprise? Are the colonies able to maintain a fleet, sufficient to afford one idea of security to such an extensive sea-coast? Before they can defend themselves against foreign invasions, they must unite into one empire; otherwise the jarring interests, and opposite propensities, would render the many headed monster in politics, unwieldly and inactive. Neither the form or seat of government would be readily agreed upon; more difficult still would it be to fix upon the person or persons, to be invested with the imperial authority. There is perhaps as great a diversity between the tempers and habits of the inhabitants of this province, and the tempers and habits of the Carolinians, as there subsists between some different nations; nor need we travel so far; the Rhode-Islanders are as diverse from the people of Connecticut, as those mentioned before. Most of the colonies are rivals to each other in trade. Between

others there subsist deep animosities, respecting their boundaries, which have heretofore produced violent altercations, and the sword of civil war has been more than once unsheathed, without bringing these disputes to a decision. It is apparent that so many discordant, heterogeneous particles could not suddenly unite and consolidate into one body. It is most probable, that if they were ever united, the union would be effected by some aspiring genius, putting himself at the head of the colonists' army (for we must suppose a very respectable one indeed, before we are severed from Britain) and taking advantage of the enfeebled, bleeding, and distracted state of the colonies, subjugate the whole to the yoke of despotism. Human nature is every where the same; and this has often been the issue of those rebellions, that the rightful prince was unable to subdue. We need not travel through the states of ancient Greece and Rome, or the more modern ones in Europe, to pick up the instances, with which the way is strewed; we have a notable one in our own. So odious and arbitrary was the protectorate of Cromwell, that when death had delivered them from the dread of the tyrant, all parties conspired to restore monarchy; and each one strove to be the foremost in inviting home, and placing upon the imperial throne, their exiled prince, the son of the same Charles, who, not many years before, had been murdered on a scaffold. The republicans themselves now rushed to the opposite extreme, and had Charles 2d. been as ambitious, as some of his predecessors were, he might have established in England a power more arbitrary, than the first Charles ever had in contemplation.

Let us now suppose the colonies united, and moulded into some form of government. Think one moment of

the revenue necessary to support this government, and to provide for even the appearance of defence. Conceive yourselves in a manner exhausted by the conflict with Great Britain, now staggering and sinking under the load of your own taxes, and the weight of your own government. Consider further, that to render government operative and salutary, subordination is necessary. This our patriots need not be told of; and when once they had mounted the steed, and found themselves so well seated as to run no risk of being thrown from the saddle, the severity of their discipline to restore subordination, would be in proportion to their former treachery in destroying it. We have already seen specimens of their tyranny, in their inhuman treatment of persons guilty of no crime, except that of differing in sentiment from the whigs. What then must we expect from such scourges of mankind, when supported by imperial power?

To elude the difficulty resulting from our defenceless situation, we are told that the colonies would open a free trade with all the world, and all nations would join in protecting their common mart. A very little reflection will convince us that this is chimerical. American trade, however beneficial to Great Britain, while she can command it, would be but as a drop of the bucket, or the light dust of the balance, to all the commercial states of Europe. Besides, were British fleets and armies no longer destined to our protection, in a very short time, France and Spain would recover possession of those territories, that were torn, reluctant and bleeding from them, in the last war, by the superior strength of Britain. Our enemies would again extend their line of fortification, from the northern to the southern shore; and by means of our late settlements stretching themselves to the confines of Canada, and

the communications opened from one country to the other, we should be exposed to perpetual incursions from Canadians and savages. But our distress would not end here; for when once these incursions should be supported by the formidable armaments of France and Spain, the whole continent would become their easy prey, and would be parcelled out, Poland like. Recollect the consternation we were thrown into last war, when Fort William Henry was taken by the French. It was apprehended that all New England would be overrun by their conquering arms. It was even proposed, for our own people to burn and lay waste all the country west of Connecticut river, to impede the enemies march, and prevent their ravaging the country east of it. This proposal come from no inconsiderable man. Consider what must *really* have been our fate, unaided by Britain last war.

Great Britain aside, what earthly power could stretch out the compassionate arm to shield us from those powers, that have long beheld us with the sharp, piercing eyes of avidity, and have heretofore bled freely, and expended their millions to obtain us? Do you suppose their lust of empire is satiated? Or do you suppose they would scorn to obtain so glorious a prize by an easy conquest? Or can any be so visionary or impious, as to believe that the Father of the Universe will work miracles in favour of rebellion? And after having, by some unseen arm, and mighty power, destroyed Great Britain for us, will in the same mysterious way defend us against other European powers? Sometimes we are told, that the colonies may put themselves under the protection of some one foreign state; but it ought to be considered, that to do that, we must throw ourselves into their power. We can make them no

return for protection, but by trade; and of that they can have no assurance, unless we become subject to their laws. This is evident by our contention with Britain.

Which state would you prefer being annexed to; France, Spain, or Holland? I suppose the latter, as it is a republic. But are you sure, that the other powers of Europe would be idle spectators; content to suffer the Dutch to engross the American colonies, or their trade? And what figure would the Dutch probably make in the unequal contest? Their sword has been long since sheathed in commerce. Those of you that have visited Surinam, and seen a Dutch governor dispensing at discretion his own opinions for law, would not suddenly exchange the English for Dutch government.

I will subjoin some observations from the Farmer's letters. "When the appeal is made to the sword, highly probable it is, that the punishment will exceed the offence, and the calamities attending on war outweigh those preceding it. These considerations of justice and prudence, will always have great influence with good and wise men. To these reflections it remains to be added, and ought forever to be remembered, that resistance in the case of the colonies against their mother country, is extremely different from the resistance of a people against their prince. A nation may change their king, or race of kings, and retaining their ancient form of government, be gainers by changing. Thus Great Britain, under the illustrious house of Brunswick, a house that seems to flourish for the happiness of mankind, has found a felicity unknown in the reigns of the Stewarts. But if once we are separated from

our mother country, what new form of government shall we adopt, or where shall we find another Britain to supply our loss? Torn from the body, to which we are united by religion, laws, affection, relation, language and commerce, we must bleed at every vein. In truth, the prosperity of these provinces is founded in their dependance on Great Britain."

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the Province of Massachusetts Bay,

February 6, 1775.

MY DEAR COUNTRYMEN,

WHEN we reflect upon the constitutional connection between Great Britain and the colonies, view the reciprocation of interest, consider that the welfare of Britain, in some measure, and the prosperity of America wholly depends upon that connection; it is astonishing, indeed, almost incredible, that one person should be found on either side of the Atlantic, so base, and destitute of every sentiment of justice, as to attempt to destroy or weaken it. If there are

none such, in the name of Almighty God, let me ask, wherefore is rebellion, that implacable fiend to society, suffered to rear its ghastly front among us, blasting, with haggard look, each social joy, and embittering every hour?

Rebellion is the most atrocious offence, that can be perpetrated by man, save those which are committed more immediately against the supreme Governor of the Universe, who is the avenger of his own cause. It dissolves the social band, annihilates the security resulting from law and government; introduces fraud, violence, rapine, murder, sacrilege, and the long train of evils, that riot, uncontrouled, in a state of nature. Allegiance and protection are reciprocal. The subject is bound by the compact to yield obedience to government, and in return, is entitled to protection from it; thus the poor are protected against the rich; the weak against the strong; the individual against the many; and this protection is guaranteed to each member, by the whole community. But when government is laid prostrate, a state of war, of all against all commences; might overcomes right; innocence itself has no security, unless the individual sequesters himself from his fellowmen, inhabits his own cave, and seeks his own prey. This is what is called a state of nature. I once thought it chimerical.

The punishment inflicted upon rebels and traitors, in all states, bears some proportion to the aggravated crime. By our law, the punishment is, "That the offender be drawn to the gallows, and not be carried, or walk; that he be hanged by the neck, and then cut down alive; that his entrails be taken out and burned while he is yet alive; that his head be cut off; that his body be divided into four parts; that his head and

quarters be at the king's disposal." The consequences of attainder, are forfeiture and corruption of blood.

"Forfeiture is two-fold, of real and personal estate; by attainder in high treason a man forfeits to the king all his lands and tenements of inheritance, whether fee simple, or fee tail; and all his rights of entry on lands and tenements, which he had at the time of the offence committed, or at any time afterwards to be for ever vested in the crown. The forfeiture relates back to the time of the treason being committed, so as to avoid all intermediate sales and incumberances; even the dower of the wife is forfeited. The natural justice of forfeiture, or confiscation of property, for treason, is founded in this consideration, that he, who has thus violated the fundamental principles of government, and broken his part of the original contract between king and people, hath abandoned his connections with society; hath no longer any right to those advantages, which before belonged to him purely as a member of the community, among which social advantages the right of transferring or transmitting property to others, is one of the chief. Such forfeitures, moreover, whereby his posterity must suffer, as well as himself, will help to restrain a man, not only by the sense of his duty and dread of personal punishment, but also by his passions and natural affections; and will influence every dependant and relation he has to keep him from offending." 4 Black. 374. 375.

It is remarkable, however, that this offence, notwithstanding it is of a crimson colour, and the deepest dye, and its just punishment is not confined to the person of the offender, but beggars all his family, is sometimes committed by persons, who are not conscious of guilt. Sometimes they are ignorant

of the law, and do not foresee the evils they bring upon society; at others, they are induced to think that their cause is founded in the eternal principles of justice and truth, that they are only making an appeal to heaven, and may justly expect its decree in their favour. Doubtless many of the rebels, in the year 1745, were buoyed up with such sentiments, nevertheless they were cut down like grass before the scythe of the mower; the gibbet and scaffold received those that the sword, wearied with destroying, had spared; and what loyalist shed one pitying tear over their graves? They were incorrigible rebels, and deserved their fate. The community is in less danger, when the disaffected attempt to excite a rebellion against the person of the prince, than when government itself is the object, because in the former case the questions are few, simple, and their solutions obvious, the fatal consequences more apparent, and the loyal people more alert to suppress it in embryo; whereas, in the latter, a hundred rights of the people, inconsistent with government, and as many grievances, destitute of foundation, the mere creatures of distempered brains, are pourtrayed in the liveliest colours, and serve as bugbears to affright from their duty, or as decoys to allure the ignorant, the credulous and the unwary, to their destruction. Their suspicions are drowned in the perpetual roar for liberty and country; and even the professions of allegiance to the person of the king, are improved as means to subvert his government.

In mentioning high treason in the course of these papers, I may not always have expressed myself with the precision of a lawyer; they have a language peculiar to themselves. I have examined their books, and beg leave to lay before you some further extracts, which deserve your attention. To levy war

against the king, was high treason by the common law, 3 inst. 9. This is also declared to be high treason by the stat. of 25 Edw. 3. c. 2. and by the law of this province, 8 W. 3. c. 5. Assembling in warlike array, against a statute, is levying war against the king, 1 Hale 133. So to destroy any trade generally, 146. Riding with banners displayed, or forming into companies; or being furnished with military officers; or armed with military weapons, as swords, guns, &c. any of these circumstances carries the *speciem belli*, and will support an indictment for high treason in levying war, 150. An insurrection to raise the price of servants' wages was held to be an overt-act of this species of treason, because this was done *in defiance of the statute* of labourers; it was done in defiance of the *king's authority*, 5 Bac. 117 cites 3 inst. 10. Every assembling of a number of men, in a warlike manner, with a design to redress any *public grievance*, is likewise an overt-act of this species of treason, because this being an attempt to do that by *private authority*, which only ought to be done by the king's authority, is an invasion of the prerogative, 5 Bac. 117 cites 3 inst. 9. Ha. p. c. 14. Kel. 71. Sid. 358. 1. Hawk. 37. Every assembling of a number of men in a warlike manner, with an intention to reform the government, or the law, is an overt-act of this species of treason, 5 Bac. 117. cites 3 inst. 9. 10. Poph. 122. Kel. 76. 7. 1 Hawk. 37. Levying war may be by taking arms, not only to dethrone the king, but under pretence to reform religion, or the laws, or to remove evil councellors, or other grievances, whether *real* or *pretended*, 4 Black. 81. Foster 211. If any levy war to expulse strangers; to deliver men out of prison; to remove councellors, or against any statute; or to any other end, pretending reformation of their own heads, without warrant, this is levying

war against the king, because they take upon them royal authority, which is against the king, 3 inst. 9. If three, four, or more, rise to pull down an inclosure, this is a riot; but if they had risen of purpose to alter religion, established within the realm, or laws, or to go from town to town generally, and cast down inclosures, this is a levying of war (though there be no great number of conspirators) within the purview of this statute; because the pretence is public and general, and not private in particular, 3 inst. 9. Foster 211. If any, with strength and weapons, invasive and defensive, do hold and defend a castle or fort, against the king and his power, this is levying of war against the king, 3 inst. 10. Foster 219. 1 Hale 149. 296.

It was resolved by all the judges of England in the reign of Henry the 8th, that an insurrection against the statute of labourers, for the enhancing of salaries and wages, was a levying of war against the king, because it was generally against the *king's law*, and the offenders took upon them the reformation thereof, which subjects by gathering of power, ought not to do, 3 inst. 10. All risings in order to effect innovations of a *public* and *general* concern, by an armed force, are, in construction of law, high treason within the clause of levying war. For though they are not levelled at the person of the king, they are against his royal majesty. And besides, they have a direct tendency to dissolve all the bonds of society, and to destroy all property, and all government too, by numbers and an armed force, Foster 211. In Benstead's case, Cro. car. 593. At a conference of all the justices and barons, it was resolved, that going to Lambeth house, in warlike manner, to surprize the archbishop, who was a privy counsellor (it being with drums and a multitude) to the number of three

hundred persons, was treason; upon which Foster, page 212, observes, that if it did appear by the libel, which he says was previously posted up at the exchange, exhorting the apprentices to rise and sack the bishop's house, upon the Monday following, or by the cry of the rabble, at Lambeth house, that the attempt was made on account of measures *the king had taken, or was then taking at the instigation, as they imagined, of the archbishop*, and that the rabble had *deliberately* and upon a *public invitation*, attempted by *numbers* and open force, to take a *severe revenge* upon the *privy counsellor* for the measures the sovereign had taken or was pursuing, the *grounds and reasons* of the resolutions would be sufficiently explained, without taking that *little* circumstance of the *drum* into the case. And he delivers as his opinion, page 208, that no great stress can be laid on that distinction taken by Ld. C. J. Hale, between an insurrection with, and one without the appearance of an army formed under leaders, and provided with military weapons, and with drums, colours, &c. and says, the *want* of these circumstances weighed nothing with the court in the cases of Damaree and Purchase, but that it was supplied by the *number* of the insurgents. That they were provided with axes, crows, and such like tools, *furor arma ministrat*; and adds, page 208, the true criterion in all these cases, is, *quo animo*, did the parties assemble, whether on account of some *private* quarrel, or, page 211, to effect innovations of a *public* and *general* concern, by an armed force. Upon the case of Damaree and Purchase, reported 8 stat. in. 218. to 285. Judge Foster observes, page 215, that "since the meeting houses of protestant dissenters are, by the *toleration act* taken under *protection* of the *law*, the insurrection in the present case, being to pull down all dissenting

protestant meeting-houses, was to be considered as a public declaration of the rabble *against that act*, and an attempt to render it *ineffectual* by *numbers* and open force."

If there be a conspiracy to levy war, and afterwards war is levied, the conspiracy is, in every one of the conspirators, an overt act of this species of treason, for there can be no accessary in high treason, 5 Bac. 115. cites 3 inst. 9. 10. 138 Hales P. C. 14. Kel. 19. 1 Hawk. 38. A compassing or conspiracy to levy war is no treason, for there must be a levying of war *in facto*. But if many conspire to levy war, and some of them do levy the same according to the conspiracy, this is high treason in all, for in treason all are principals, and war is levied, 3 inst. 9. Foster 213.

The *painful* task of applying the above rules of law to the several transactions that we have been eye witnesses to, will never be mine. Let me however intreat you, to make the application in your own minds; and those of you that have continued hitherto faithful among the faithless, Abdiel like, to persevere in your integrity; and those of you that have been already ensnared by the accursed wiles of designing men, to cast yourselves immediately upon that mercy, so conspicuous through the British constitution, and which is the brightest jewel in the imperial diadem.

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the Province of Massachusetts Bay,

February 13, 1775.

MY DEAR COUNTRYMEN,

I OFFERED to your consideration, last week, a few extracts from the law books, to enable those that have been but little conversant with the law of the land, to form a judgment, and determine for themselves, whether any have been so far beguiled and seduced from their allegiance, as to commit the most aggravated offence against society, high treason. The whigs reply, riots and insurrections are frequent in England, the land from which we sprang; we are bone of their bone, and flesh of their flesh.—Granted; but at the same time be it remembered, that in England the executive is commonly able and willing to suppress insurrections, the judiciary to distribute impartial justice, and the legislative power to aid and strengthen the two former if necessary; and whenever these have proved ineffectual to allay intestine commotions, war, with its concomitant horrors, have passed through the land, marking their rout with blood. The bigger part of Britain has at some period or other, within the reach of history, been forfeited to the crown, by the rebellion of its proprietors.

Let us now take a view of American grievances, and try, by the sure touchstone of reason and the constitution, whether there be any act or acts, on the part of the king or parliament, that will justify the whigs even in *foro conscientiæ*, in thus forcibly opposing their government. Will the alteration of the mode of appointing one branch of our provincial legislature furnish so much as an excuse for it, considering that our politicians, by their intrigues and machinations, had rendered the assembly incapable of answering the purpose of government, which is protection, and our charter was become as inefficacious as an old ballad? Or can a plea of justification be founded on the parliament's giving us an exact transcript of English laws for returning jurors, when our own were insufficient to afford compensation to the injured, to suppress seditions, or even to restrain rebellion? It has been heretofore observed, that each member of the community is entitled to protection; for this he pays taxes, for this he relinquishes his natural right of revenging injuries and redressing wrongs, and for this the sword of justice is placed in the hands of the magistrate. It is notorious that the whigs had usurped the power of the province in a great measure, and exercised it by revenging themselves on their opponents, or in compelling them to enlist under their banners. Recollect the frequency of mobs and riots, the invasions and demolitions of dwelling houses and other property, the personal abuse, and frequent necessity of persons abandoning their habitations, the taking sanctuary on board men of war, or at the castle, previous to the regulating bill. Consider that these sufferers were loyal subjects, violators of no law, that many of them were crown officers, and were thus persecuted for no other offence, than that

of executing the king's law. Consider further, that if any of the sufferers sought redress in a court of law, he had the whole whig interest to combat; they gathered like a cloud and hovered like harpies round the seat of justice, until the suitor was either condemned to pay cost to his antagonist, or recovered so small damages, as that they were swallowed up in his own. Consider further, that these riots were not the accidental or spontaneous risings of the populace, but the result of the deliberations and mature councils of the whigs, and were sometimes headed and led to action by their principals. Consider further, that the general assembly lent no aid to the executive power. Weigh these things, my friends, and doubt if you can, whether the act for regulating our government did not flow from the parental tenderness of the British councils, to enable us to recover from anarchy, without Britain being driven to the necessity of inflicting punishment, which is her strange work. Having taken this cursory view of the convulsed state of the province, let us advert to our charter form of government, and we shall find its distributions of power to have been so preposterous, as to render it next to impossible for the province to recover by its own strength. The council was elective annually by the house, liable to the negative of the chair, and the chair restrained from acting, even in the executive department, without the concurrence of the board. The political struggle is often between the governor and the house, and it is a maxim with politicians, that he that is not for us is against us. Accordingly, when party run high, if a counsellor adhered to the governor, the house refused to elect him the next year; if he adhered to the house, the governor negatived him; if he trimmed his bark so as to steer a

middle course between Scylla and Charybdis, he was in danger of suffering more by the neglect of both parties, than of being wrecked but on one.

In moderate times, this province has been happy under our charter form of government; but when the political storm arose, its original defect became apparent. We have sometimes seen half a dozen sail of tory navigation unable, on an election day, to pass the bar formed by the flux and reflux of the tides at the entrance of the harbour, and as many whiggish ones stranded the next morning on Governor's Island. The whigs took the lead in this game, and therefore I think the blame ought to rest upon them, though the tables were turned upon them in the sequel. A slender acquaintance with human nature will inform, experience has evinced, that a body of men thus constituted, are not to be depended upon to act that vigorous, intrepid and decisive part, which the emergency of the late times required, and which might have proved the salvation of the province. In short, the board which was intended to moderate between the governor and the house, or perhaps rather to support the former, was incapable of doing either by its original constitution. By the regulating act, the members of the board are appointed by the king in the council, and are not liable even to the suspension of the governor; their commissions are *durante bene placito*, and they are therefore far from independence. The infant state of the colonies does not admit of a peerage, nor perhaps of any third branch of legislature wholly independent. In most of the colonies, the council is appointed by mandamus, and the members are moreover liable to be suspended by the governor, by which means they are more dependant, than those appointed according to the regulating act; but no inconvenience arises from

that mode of appointment. Long experience has evinced its utility. By this statute, extraordinary powers are devolved upon the chair, to enable the governor to maintain his authority, and to oppose with vigor the daring spirit of independance, so manifest in the whigs. Town meetings are restrained to prevent their passing traitorous resolves. Had these and many other innovations contained in this act, been made in moderate times, when due reverence was yielded to the magistrate, and obedience to the law, they might have been called grievances; but we have no reason to think, that had the situation of the province been such that this statute would ever have had an existence—nor have we any reason to doubt, but that it will be repealed, in whole or part, should our present form of government be found by experience to be productive of rapine or oppression. It is impossible that the king, lords or commons could have any sinister views in regulating the government of this province. Sometimes we are told that charters are sacred. However sacred, they are forfeited through negligence or *abuse* of their franchises, in which cases the law judges that the body politic has broken the condition, upon which it was incorporated.

There are many instances of the negligence and abuse, that work the forfeiture of charters, delineated in law books. They also tell us, that all charters may be vacated by act of parliament. Had the form of our provincial legislature been established by act of parliament, that act might have been constitutionally and equitably repealed, when it was found to be incapable of answering the end of its institution. Stronger still is the present case, where the form of government was established by one branch of the legislature only, viz. the king, and all three join in

the revocation. This act was however a fatal stroke to the ambitious views of our republican patriots. The monarchial part of the constitution was so guarded by it, as to be no longer vulnerable by their shafts, and all their fancied greatness vanished, like the baseless fabric of a vision. Many that had been long striving to attain a seat at the board, with their faces thitherward, beheld, with infinite regret, their competitors advanced to the honors they aspired to themselves. These disappointed, ambitious, and envious men, instil the poison of disaffection into the minds of the lower classes, and as soon as they are properly impregnated, exclaim, *the people* never will submit to it. They now would urge them into certain ruin, to prevent the execution of an act of parliament, designed and calculated to restore peace and harmony to the province, and to recal that happy state, when year rolled round on year, in a continual increase of our felicity.

The Quebec bill is another capital grievance, because the Canadians are tolerated in the enjoyment of their religion, which they were entitled to, by an article of capitulation, when they submitted to the British arms. This toleration is not an exclusion of the protestant religion, which is established in every part of the empire, as firmly as civil polity can establish it. It is a strange kind of reasoning to argue, from the French inhabitants of the conquered province of Quebec being tolerated, in the enjoyment of the Roman Catholic religion, in which they were educated, and in which alone they repose their hope of eternal salvation; that therefore government intends to deprive us of the enjoyment of the protestant religion, in which alone we believe, especially as the political interests of Britain depend upon protestant connexions, and the king's being a

protestant himself is an indispensable condition of his wearing the crown. This circumstance however served admirably for a fresh stimulus, and was eagerly grasped by the disaffected of all orders. It added pathos to pulpit oratory. We often see resolves and seditious letters interspersed with *popery* here and there in Italics. If any of the clergy have endeavoured, from this circumstance, to alarm their too credulous audiences, with an apprehension that their religious privileges were in danger, thereby to excite them to take up arms, we must lament the depravity of the best of men; but human nature stands apalled when we reflect upon the aggravated guilt of prostituting our holy religion to the accursed purposes of treason and rebellion. As to our lay politicians, I have long since ceased to wonder at any thing in them; but it may be observed that there is no surer mark of a bad cause, than for its advocates to recur to such pitiful shifts to support it. This instance plainly indicates that their sole dependance is in preventing the passions subsiding, and cool reason resuming its seat. It is a mark of their shrewdness however, for whenever reason shall resume its seat, the political cheat will be detected, stand confest in its native turpitude, and the political knave be branded with marks of infamy, adequate, if possible, to the enormity of his crimes.

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the Province of Massachusetts Bay,

February 20, 1775.

MY DEAR COUNTRYMEN,

IT would be an endless task to remark minutely upon each of the fancied grievances, that swarm and cluster, fill and deform the American chronicles. An adeptness at discovering grievances has lately been one of the principal recommendations to public notice and popular applause. We have had geniuses selected for that purpose, called committees upon grievances; a sagacious set they were, and discovered a multitude before it was known, that they themselves were the greatest grievances that the country was infested with. The case is shortly this; the whigs suppose the colonies to be separate or distinct states: having fixed this opinion in their minds, they are at no loss for grievances. Could I agree with them in their first principle, I should acquiesce in many of their deductions; for in that case every act of parliament, extending to the colonies, and every movement of the crown to carry them into execution, would be really grievances, however wise and salutary they might be in themselves, as they would be exertions of a power that we were not constitutionally subject to, and would deserve the name of usurpation and tyranny; but deprived of this their corner stone, the terrible

fabric of grievances vanishes, like castles raised by enchantment, and leaves the wondering spectator amazed and confounded at the deception. He suspects himself to have but just awoke from sleep, or recovered from a trance, and that the formidable spectre, that had froze him with horror, was no more than the creature of a vision, or the delusion of a dream.

Upon this point, whether the colonies are distinct states or not, our patriots have rashly tendered Great Britain an issue, against every principle of law and constitution, against reason and common prudence. There is no arbiter between us but the sword; and that the decision of that tribunal will be against us, reason foresees, as plainly as it can discover any event that lies in the womb of futurity. No person, unless actuated by ambition, pride, malice, envy, or a malignant combination of the whole, that verges towards madness, and hurries the man away from himself, would wage war upon such unequal terms. No honest man would engage himself, much less plunge his country into the calamities of a war upon equal terms, without first settling with his conscience, in the retired moments of reflection, the important question respecting the justice of his cause. To do this, we must hear and weigh every thing that is fairly adduced, on either side of the question, with equal attention and care. A disposition to drink in with avidity, what favours our hypothesis, and to reject with disgust whatever contravenes it, is an infallible mark of a narrow, selfish mind. In matters of small moment, such obstinacy is weakness and folly, in important ones, fatal madness. There are many among us, that have devoted themselves to the slavish dominion of prejudice; indeed the more liberal have seldom had an opportunity of bringing

the question to a fair examen. The eloquence of the bar, the desk and the senate, the charms of poetry, the expressions of painting, sculpture and statuary have conspired to fix and rivet ideas of independance upon the mind of the colonists. The overwhelming torrent, supplied from so many fountains, rolled on with increasing rapidity and violence, till it became superior to all restraint. It was the reign of passion; the small, still voice of reason was refused audience. I have observed that the press was heretofore open to but one side of the question, which has given offence to a writer in Edes and Gill's paper, under the signature of Novanglus, to whom I have many things to say. I would at present ask him, if the convention of committees for the county of Worcester, in recommending to the inhabitants of that county not to take newspapers, published by two of the printers in this town, and two at New York, have not affected to be licensers of the press? And whether, by proscribing these printers, and endeavouring to deprive them of a livelihood, they have not manifested an illiberal, bigoted, arbitrary, malevolent disposition? And whether, by thus attempting to destroy the liberty of the press, they have not betrayed a consciousness of the badness of their cause?

Our warriors tell us, that the parliament shall be permitted to legislate for the purposes of regulating trade, but the parliament hath most unrighteously asserted, that it "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 in all cases whatever," that this claim is without any qualification or restriction, is an innovation, and inconsistent with liberty. Let us candidly inquire into these three observations, upon

the statute declaratory of the authority of parliament. As to its universality, it is true there are no exceptions expressed, but there is no general rule without exceptions, expressed or implied.

The implied ones in this case are obvious. It is evident that the intent and meaning of this act, was to assert the supremacy of parliament in the colonies, that is, that its constitutional authority to make laws and statutes binding upon the colonies, is, and ever had been as ample, as it is to make laws binding upon the realm. No one that reads the declaratory statute, not even prejudice itself, can suppose that the parliament meant to assert thereby a right or power to deprive the colonists of their lives, to enslave them, or to make any law respecting the colonies, that would not be constitutional, were it made respecting Great Britain. By an act of parliament passed in the year 1650, it was declared concerning the colonies and plantations in America, that they had "ever since the planting thereof been and ought to be subject to such laws, orders and regulations, as are or shall be made by the parliament of England." This declaration though differing in expression, is the same in substance with the other. Our house of representatives, in their dispute with governor Hutchinson, concerning the supremacy of parliament, say, "It is difficult, if possible, to draw a line of distinction between the universal authority of parliament over the colonies, and no authority at all."

The declaratory statute was intended more especially to assert the right of parliament, to make laws and statutes for raising a revenue in America, lest the repeal of the stamp act might be urged as a disclaimer of the right. Let us now inquire whether a

power to raise a revenue be not the inherent, unalienable right of the supreme legislative of every well regulated state, where the hereditary revenues of the crown, or established revenues of the state are insufficient of themselves; and whether that power be not necessarily coextensive with the power of legislation, or rather necessarily implied in it.

The end or design of government, as has been already observed, is the security of the people from internal violence and rapacity, and from foreign invasion. The supreme power of a state must necessarily be so extensive and ample as to answer those purposes, otherwise it is constituted in vain and degenerates into empty parade and mere ostentatious pageantry. These purposes cannot be answered without a power to raise a revenue; for without it neither the laws can be executed, nor the state defended. This revenue ought, in national concerns, to be apportioned throughout the whole empire according to the abilities of the several parts, as the claim of each to protection, is equal; a refusal to yield the former is as unjust as the withholding of the latter. Were any part of an empire exempt from contributing their proportionable part of the revenue, necessary for the whole, such exemption would be manifest injustice to the rest of the empire; as it must of course bear more than its proportion of the public burden, and it would amount to an additional tax. If the proportion of each part was to be determined only by itself in a separate legislature, it would not only involve in it the absurdity of *imperium in imperio*, but the perpetual contention arising from the predominant principle of self-interest in each, without having any common arbiter between them, would render the disjointed, discordant, torn, and dismembered state incapable of

collecting or conducting its force and energy for the preservation of the whole, as emergencies might require. A government thus constituted, would contain the seeds of dissolution in its first principles, and must soon destroy itself.

I have already shewn, that by your first charter, this province was to be subject to taxation, after the lapse of twenty-one years, and that the authority of parliament to impose such taxes, was claimed so early as the year 1642.

In the patent for Pennsylvania, which is now in force, there is this clause, "And further our pleasure is, and by these presents, for us, &c. we do covenant and grant to, and with the said William Penn, &c. that we, &c. shall at no time hereafter set or make, or cause to be set, any imposition, custom, or other taxation, or rate or contribution whatsoever, in and upon the dwellers, and inhabitants of the aforesaid province, for their lands, tenements, goods or chattels within the said province, or in and upon any goods or merchandise within the said province, to be laden or unladen within the ports or harbours of the said province, unless the same be with the consent of the proprietors, chief governor, or assembly, or *act of parliament*."

These are stubborn facts; they are incapable of being winked out of existence, how much soever, we may be disposed to shut our eyes upon them. They prove, that the claim of a right to raise a revenue in the colonies, exclusive of the grants of their own assemblies, is coeval with the colonies themselves. I shall next shew, that there has been an actual, uninterrupted exercise of that right, by the parliament time immemorial.

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the Province of Massachusetts Bay,

February 27, 1775.

MY DEAR COUNTRYMEN,

BY an act of parliament made in the twenty-fifth year of the reign of Charles 2d. duties are laid upon goods and merchandise of various kinds, exported from the colonies to foreign countries, or carried from one colony to another, payable on exportation. I will recite a part of it, viz: "For so much of the said commodities as shall be laden and put on board such ship or vessel; that is to say, for sugar, white, the hundred weight, five shillings; and brown and Muscovados, the hundred weight, one shilling and six pence; tobacco, the pound, one penny; cotton wool, the pound, one half-penny; for indigo, two-pence; ginger, the hundred weight, one shilling; logwood, the hundred weight, five pounds; fustic, and all other dying wood, the hundred weight, six-pence; cocoa, the pound, one-penny, to be *levied, collected, and paid*, at such places, and to such

collectors and other officers, as shall be appointed in the respective plantations, to collect, levy, and receive the same, before the landing thereof, and under such penalties, both to the officers, and upon the goods, as for non-payment of, or *defrauding his majesty of his customs in England*. And for the better *collecting of the several rates and duties imposed by this act*, be it enacted that this whole business shall be ordered and managed, and the several duties hereby imposed shall be caused *to be levied by the commissioners of the customs in England*, by and under the authority of the lord treasurer of England, or commissioners of the treasury."

It is apparent, from the reasoning of this statute, that these duties were imposed for the sole purpose of revenue. There has lately been a most ingenious play upon the words and expressions *tax*, *revenue*, *purpose of raising a revenue*, *sole purpose of raising a revenue*, *express purpose of raising a revenue*, as though their being inserted in, or left out of a statute, would make any essential difference in the statute. This is mere playing with words; for if, from the whole tenor of the act, it is evident, that the intent of the legislature was to tax, rather than to regulate the trade, by imposing duties on goods and merchandise, it is to all intents and purposes, an instance of taxation, be the form of words, in which the statute is conceived, what it will. That such was the intent of the legislature, in this instance, any one that will take the pains to read it, will be convinced. There have been divers alterations made in this by subsequent statutes, but some of the above taxes remain, and are collected and paid in the colonies to this day. By an act of the 7th. and 8th. of William and Mary, it is enacted, "that every seaman, whatsoever, that shall serve his majesty, or any other person whatever in

any of his majesty's ships or vessels, whatsoever, belonging, or to belong to any subjects of England, or any other his majesty's dominions, shall allow, and there shall be paid out of the wages of every such seaman, to grow due for such his service, six-pence per annum for the better support of the said hospital, and to augment the *revenue* thereof." This tax was imposed in the reign of king William 3d. of blessed memory, and is still levied in the colonies. It would require a volume to recite, or minutely to remark upon all the revenue acts that relate to America. We find them in many reigns, imposing new duties, taking off, or reducing old ones, and making provision for their collection, or new appropriations of them. By an act of the 7th. and 8th. of William and Mary, entitled, "an act for preventing frauds and regulating abuses in the plantations." All former acts respecting the plantations are renewed, and all ships and vessels coming into any port here, are liable to the same regulations and restrictions, as ships in the ports in England are liable to; and enacts, "*That the officers for collecting and managing his majesty's revenue, and inspecting the plantation trade in many of the said plantations*, shall have the same powers and authority for visiting and searching of ships, and taking their entries, and for seizing, or securing, or bringing on shore any of the goods prohibited to be imported or exported into or out of any of the said colonies and plantations, *or for which any duties are payable, or ought to be paid by any of the before mentioned acts, as are provided for the officers of the customs in England*."

The act of the 9th of Queen Ann, for establishing a post-office, gives this reason for its establishment, and for laying taxes thereby imposed on the carriage of letters in Great Britain and Ireland, the colonies

and plantations in North America and the West Indies, and all other her majesty's dominions and territories, "that the business may be done in such manner as may be most beneficial to the people of these kingdoms, and her majesty may be supplied, and the revenue arising by the said office, better improved, settled, and secured to her majesty, her heirs, and successors." The celebrated patriot, Dr. Franklin, was till lately one of the principal collectors of it. The merit in putting the post-office in America upon such a footing as to yield a large revenue to the crown, is principally ascribed to him by the whigs. I would not wish to detract from the real merit of that gentleman, but had a tory been half so assiduous in increasing the America revenue, Novanglus would have wrote parricide at the end of his name. By an act of the sixth of George 2d. a duty is laid on all foreign rum, molasses, syrups, sugars, and paneles, to be *raised, levied, collected, and paid unto, and for the use of his majesty, his heirs, and successors*. The preamble of an act of the fourth of his present majesty declares, "that *it is just and necessary that a revenue in America for defraying the expences of defending, protecting, and securing the same*," &c. by which act duties are laid upon foreign sugars, coffee, Madeira wine; upon Portugal, Spanish, and all other wine, except French wine, imported from Great Britain; upon silks, bengals, stuffs, calico, linen cloth, cambric, and lawn, imported from particular places.

Thus, my friends, it is evident, that the parliament has been in the actual, uninterrupted use and exercise of the right claimed by them, to raise a revenue in America, from a period more remote than the grant of the present charter, to this day. These revenue acts have never been called unconstitutional till very lately. Both whigs and tories acknowledged

them to be constitutional. In 1764, Governor Bernard wrote and transmitted to his friends, his polity alluded to, and in part recited by Novanglus, wherein he asserts the right or authority of the parliament to tax the colonies. Mr. Otis, whose patriotism, sound policy, profound learning, integrity and honour, is mentioned in strong terms by Novanglus, in the self-same year, in a pamphlet which he published to the whole world, asserts the right or authority of parliament to tax the colonies, as roundly as ever Governor Bernard did, which I shall have occasion to take an extract from hereafter. Mr. Otis was at that time the most popular man in the province, and continued his popularity many years afterwards.

Is it not a most astonishing instance of caprice, or infatuation, that a province, torn from its foundations, should be precipitating itself into a war with Great Britain, because the British parliament asserts its right of raising a revenue in America, inasmuch as the claim of that right is as ancient as the colonies themselves; and there is at present no grievous exercise of it? The parliaments refusing to repeal the act is the ostensible foundation of our quarrel. If we ask the whigs whether the pitiful three penny duty upon a luxurious, unwholesome, foreign commodity gives just occasion for the opposition; they tell us it is the precedent they are contending about, insinuating that it is an innovation. But this ground is not tenable; for a total repeal of the tea act would not serve us upon the score of precedents. They are numerous without this. The whigs have been extremely partial respecting tea. Poor tea has been made the shibboleth of party, while molasses, wine, coffee, indigo, &c. &c. have been unmolested. A person that drinks New England rum, distilled

from molasses, subject to a like duty, is equally deserving of a coat of tar and feathers, with him that drinks tea. A coffee drinker is as culpable as either, viewed in a political light. But, say our patriots, if the British parliament may take a penny from us, without our consent, they may a pound, and so on, till they have filched away all our property. This incessant incantation operates like a spell or charm, and checks the efforts of loyalty in many an honest breast. Let us give it its full weight. Do they mean, that if the parliament has a right to raise a revenue of one penny on the colonies, that they must therefore have a *right* to wrest from us all our property? If this be their meaning, I deny their deduction; for the supreme legislature can have no right to tax any part of the empire to a greater amount, than its just and equitable proportion of the necessary, national expence. This is a line drawn by the constitution itself. Do they mean, that if we admit that the parliament may constitutionally raise one penny upon us for the purposes of revenue, they will probably proceed from light to heavy taxes, till their impositions become grievous and intolerable? This amounts to no more than a denial of the right, lest it should be abused. But an argument drawn from the actual abuse of a power, will not conclude to the illegality of such power, much less will an argument drawn from a capability of its being abused. If it would, we might readily argue away all power, that man is entrusted with. I will admit, that a power of taxation is more liable to abuse, than legislation separately considered; and it would give me pleasure to see some other line drawn; some other barrier erected, than what the constitution has already done, if it be possible, whereby the constitutional authority of the supreme legislature,

might be preserved entire, and America be guaranteed in every right and exemption, consistent with her subordination and dependance. But this can only be done by parliament. I repeat I am no advocate for a land tax, or any other kind of internal tax, nor do I think we were in any danger of them. I have not been able to discover one symptom of any such intention in the parliament, since the repeal of the stamp-act. Indeed, the principal speakers of the majority, that repealed the stamp-act drew the line for us, between internal and external taxation, and I think we ought, in honour, justice, and good policy, to have acquiesced therein, at least until there was some burdensome exercise of taxation. For there is but little danger from the latter, that is from duties laid upon trade, as any grievous restriction or imposition on American trade, would be sensibly felt by the British; and I think with Dr. Franklin, that "they (the British nation) have a natural and equitable right to some toll or duty upon merchandizes carried through that part of their dominions, viz: the American seas, towards defraying the expence they are at in ships to maintain the safety of that carriage." These were his words in his examination at the bar of the house, in 1765. *Sed tempora mutantur et nos mutamur in illis.* Before we appeal to heaven for the justice of our cause, we ought to determine with ourselves, some other questions, whether America is not obliged in equity to contribute something toward the national defence: whether the present American revenue, amounts to our proportion: and whether we can, with any tolerable grace, accuse Great Britain of *injustice* in imposing the late duties, when our assemblies were previously called upon, and refused to make any provision for themselves. These, with several

imaginary grievances, not yet particularly remarked upon, I shall consider in reviewing the publications of Novanglus; a performance which, though not destitute of ingenuity, I read with a mixture of grief and indignation, as it seems to be calculated to blow up every spark of animosity, and to kindle such a flame, as must inevitably consume a great part of this once happy province, before it can be extinguished.

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the Province of Massachusetts Bay,

March 6, 1775.

MY DEAR COUNTRYMEN,

NOVANGLUS, and all others, have an indisputable right to publish their sentiments and opinions to the world, provided they conform to truth, decency, and the municipal laws, of the society of which they are members. He has wrote with a professed design of exposing the errors and sophistry which he supposes are frequent in my publications. His design is so far

laudable, and I intend to correct them wherever he convinces me there is an instance of either. I have no objection to the minutest disquisition; contradiction and disputation, like the collision of flint and steel, often strike out new light; the bare opinions of either of us, unaccompanied by the grounds and reasons upon which they were formed, must be considered only as propositions made to the reader, for him to adopt, or reject as his own reason may judge, or feelings dictate. A large proportion of the labours of Novanglus consist in denials of my allegations in matters of such public notoriety, as that no reply is necessary. He has alleged many things destitute of foundation; those that affect the main object of our pursuit, but remotely, if at all, I shall pass by without particular remark; others, of a more interesting nature, I shall review minutely. After some general observations upon Massachusettensis, he slides into a most virulent attack upon particular persons, by names, with such incomparable ease, that shews him to be a great proficient in the modern art of detraction and calumny. He accuses the late governor Shirley, governor Hutchinson, the late lieutenant governor Oliver, the late judge Russell, Mr. Paxton, and brigadier Ruggles, of a conspiracy to enslave their country. The charge is high coloured; if it be just, they merit the epithets dealt about so indiscriminately, of enemies to their country. If it be groundless, Novanglus has acted the part of an assassin, in thus attempting to destroy the reputation of the living; and of something worse than an assassin, in entering those hallowed mansions, where the wicked commonly cease from troubling, and the weary are at rest, to disturb the repose of the dead. That the charge is groundless respecting governor Bernard, governor Hutchinson, and the late

lieutenant governor, I dare assert, because they have been acquitted of it in such a manner, as every good citizen must acquiesce in. Our house of representatives, acting as the grand inquest of the province, presented them before the king in council, and after a full hearing, they were acquitted with honour, and the several impeachments dismissed, as groundless, vexatious, and scandalous. The accusation of the house was similar to this of Novanglus; the court they chose to institute their suit in, was of competent and high jurisdiction, and its decision final. This is a sufficient answer to the state charges made by this writer, so far as they respect the governors Bernard, Hutchinson and Oliver, whom he accuses as principals; and it is a general rule, that if the principal be innocent, the accessary cannot be guilty. A determination of a constitutional arbiter ought to seal up the lips of even prejudice itself, in silence; otherwise litigation must be endless. This calumniator, nevertheless, has the effrontery to renew the charge in a public news paper, although thereby he arraigns our most gracious Sovereign, and the lords of the privy council, as well as the gentlemen he has named. Not content with wounding the honour of judges, counsellors and governors, with missile weapons, darted from an obscure corner, he now aims a blow at majesty itself. Any one may accuse; but accusation, unsupported by proof, recoils upon the head of the accuser. It is entertaining enough to consider the crimes and misdemeanors alleged, and then examine the evidence he adduces, stript of the false glare he has thrown upon it.

The crimes are these; the persons named by him conspired together to *enslave* their country, in consequence of a plan, the outlines of which have

been drawn by sir Edmund Andross and others, and handed down by tradition to the present times. He tells us that governor Shirley, in 1754, communicated the profound secret, the great design of taxing the colonies by act of parliament, to the sagacious gentleman, eminent philosopher, and distinguished patriot, Dr. Franklin. The profound secret is this; after the commencement of hostilities between the English and French colonies in the last war, a convention of committees from several provinces were called by the king, to agree upon some general plan of defence. The principal difficulty they met with was in devising means whereby each colony might be obliged to contribute its proportionable part. General Shirley proposed *that application should be made to parliament to impower the committees of the several colonies to tax the whole according to their several proportions*. This plan was adopted by the convention, and approved of by the assembly in New York, who passed a resolve in these words: "That the scheme proposed by governor Shirley for the defence of the British colonies in North America, is well concerted, and that this colony joins therein." This however did not succeed, and he proposed another, viz. for the parliament to assess each one's proportion, and in case of failure to raise it on their part, that it should be done by parliament. This is the profound secret. His assiduity, in endeavouring to have some effectual plan of general defence established, is, by the false colouring of this writer, represented as an attempt to aggrandise himself, family and friends; and that gentleman, under whose administration the several parties in the province were as much united, and the whole province rendered as happy as it ever was, for so long a time together, is called a "crafty, busy,

ambitious, intriguing, enterprizing man." This attempt of Governor Shirley for a parliamentary taxation, is however a circumstance strongly militating with this writer's hypothesis, for the approbation shewn to the Governor's proposal by the convention, which consisted of persons from the several colonies, not inferior in point of discernment, integrity, knowledge or patriotism to the members of our late *grand* congress, and the vote of the New York assembly furnishes pretty strong evidence that the authority of parliament, even in point of taxation, was not doubted in that day. Even Dr. Franklin, in the letter alluded to, does not deny the right. His objections go to the inexpediency of the measure. He supposes it would create uneasiness in the minds of the colonists should they be thus taxed, unless they were previously allowed to send representatives to parliament. If Dr. Franklin really supposes that the parliament has no constitutional right to raise a revenue in America, I must confess myself at a loss to reconcile his conduct in accepting the office of post-master, and his assiduity in increasing the revenue in that department, to the patriotism predicated of him by Novanglus, especially as this unfortunately happens to be an internal tax. This writer then tells us, that the plan was interrupted by the war, and afterwards by Governor Pownal's administration. That Messieurs Hutchinson and Oliver, stung with envy at Governor Pownal's favourites, propagated slanders respecting him to render him uneasy in his seat. My answer is this, that he that publishes such falsehoods as these in a public newspaper, with an air of seriousness, insults the understanding of the public, more than he injures the individuals he defames. In the next place we are told, that Governor Bernard was the proper

man for this purpose, and he was employed by the junto to suggest to the ministry the project of taxing the colonies by act of parliament. Sometimes Governor Bernard is the arch enemy of America, the source of all our troubles, now only a tool in the hands of others. I wish Novanglus's memory had served him better, his tale might have been consistent with itself, however variant from truth. After making these assertions with equal gravity and assurance, he tells us, he does not advance this without evidence. I had been looking out for evidence a long time, and was all attention when it was promised, but my disappointment was equal to the expectation he had raised, when I found the evidence amounted to nothing more than Governor Bernard's letters and principles of law and polity, wherein he asserts the supremacy of parliament over the colonies both as to legislation and taxation. Where this writer got his logic, I do not know. Reduced to a syllogism, his argument stands thus; Governor Bernard, in 1764, wrote and transmitted to England certain letters and principles of law and polity, wherein he asserts the right of parliament to tax the colonies; Messieurs Hutchinson and Oliver were in unison with him in all his measures; therefore Messieurs Hutchinson and Oliver employed Governor Bernard to suggest to the ministry the project of taxing the colonies by act of parliament. The letters and principles are the whole of the evidence, and this is all the appearance of argument contained in his publication. Let us examine the premises. That Governor Bernard asserted the right of parliament to tax the colonies in 1764, is true. So did Mr. Otis, in a pamphlet he published the self-same year, from which I have already taken an extract. In a pamphlet published in 1765, Mr. Otis

tells us, "it is certain that the parliament of Great Britain hath a just, clear, equitable and constitutional right, power and authority to bind the colonies by all acts wherein they are named. Every lawyer, nay every Tyro, knows this; no less certain is it that the parliament of Great Britain has a just and *equitable* right, power and authority to impose taxes on the colonies *internal and external, on lands as well as on trade*." But does it follow from Governor Bernard's transmitting his principles of polity to four persons in England, or from Mr. Otis's publishing to the whole world similar principles, that either the one or the other suggested to the ministry the project of taxing the colonies by act of parliament? Hardly, supposing the transmission and publication had been prior to the resolution of parliament to that purpose; but very unfortunately for our reasoner, they were both subsequent to it, and were the effect and not the cause.

The history of the stamp act is this. At the close of the last war, which was a native of America, and increased the national debt upwards of sixty millions, it was thought by parliament to be but equitable, that an additional revenue should be raised in America, towards defraying the necessary charges of keeping it in a state of defence. A resolve of this nature was passed, and the colonies made acquainted with it through their agents, in 1764, that their assemblies might make the necessary provision if they would. The assemblies neglected doing any thing, and the parliament passed the stamp act. There is not so much as a colourable pretence that any American had a hand in the matter. Had governor Bernard, governor Hutchinson, or the late lieutenant governor been any way instrumental in obtaining the stamp act, it is very strange that not a

glimpse of evidence should ever have appeared, especially when we consider that their private correspondence has been published, letters which were written in the full confidence of unsuspecting friendship. The evidence, as Novanglus calls it, is wretchedly deficient as to fixing the charge upon governor Bernard; but, even admitting that governor Bernard suggested to the ministry the design of taxing, there is no kind of evidence to prove that the junto, as this elegant writer calls the others, approved of it, much less that they employed him to do it. But, says he, no one can doubt but that Messieurs Hutchinson and Oliver were in unison with governor Bernard, in all his measures. This is not a fact, Mr. Hutchinson dissented from him respecting the alteration of our charter, and wrote to his friends in England to prevent it. Whether governor Bernard wrote in favour of the stamp act being repealed or not I cannot say, but I know that governor Hutchinson did, and have reason to think his letters had great weight in turning the scale, which hung doubtful a long time, in favour of the repeal. These facts are known to many in the province, whigs as well as tories, yet such was the infatuation that prevailed, that the mob destroyed his house upon supposition that he was the patron of the stamp act. Even in the letters wrote to the late Mr. Whately, we find him advising to a total repeal of the tea act. It cannot be fairly inferred from persons' intimacy or mutual confidence that they always approve of each others plans. Messieurs Otis, Cushing, Hancock and Adams were as confidential friends, and made common cause equally with the other gentlemen. May we thence infer, that the three latter hold that the parliament has a just and *equitable right* to impose taxes on the colonies? Or,

that "the time may come, when the real interest of the whole may require an act of parliament to annihilate all our charters?" For these also are Mr. Otis's words. Or may we lay it down as a principle to reason from, that these gentlemen never disagree respecting measures? We know they do often, very materially. This writer is unlucky both in his principles and inferences. But where is the evidence respecting brigadier Ruggles, Mr. Paxton, and the late judge Russel? He does not produce even the shadow of a shade. He does not even pretend that they were in unison with governor Bernard in all his measures. In matters of small moment a man may be allowed to amuse with ingenious fiction, but in personal accusation, in matters so interesting both to the individual and to the public, reason and candour require something more than assertion, without proof, declamation without argument, and censure without dignity or moderation: this however, is characteristic of Novanglus. It is the stale trick of the whig writers feloniously to stab the reputation, when their antagonists are invulnerable in their public conduct.

These gentlemen were all of them, and the survivers still continue to be, friends of the English constitution, equally tenacious of the privileges of the people, and of the prerogative of the crown, zealous advocates for the colonies continuing their constitutional dependance upon Great Britain, as they think it no less the interest than the duty of the colonists; averse to tyranny and oppression in all their forms, and always ready to exert themselves for the relief of the oppressed, though they differ materially from the whigs in the mode of obtaining it; they discharged the duties of the several important departments they were called to fill, with

equal faithfulness and ability; their public services gained them the confidence of the people, real merit drew after it popularity; their principles, firmness and popularity rendered them obnoxious to certain persons amongst us, who have long been indulging themselves, in hopes of rearing up an American commonwealth, upon the ruin of the British constitution. This republican party is of long standing; they lay however, in a great measure, dormant for several years. The distrust, jealousy and ferment raised by the stamp act, afforded scope for action. At first they wore the garb of hypocrisy, they professed to be friends to the British constitution in general, but claimed some exemptions from their local circumstances; at length threw off their disguise, and now stand confessed to the world in their true characters, American republicans. These republicans knew, that it would be impossible for them to succeed in their darling projects, without first destroying the influence of these adherents to the constitution. Their only method to accomplish it, was by publications charged with falshood and scurrility. Notwithstanding the favorable opportunity the stamp act gave of imposing upon the ignorant and credulous, I have sometimes been amazed, to see with how little hesitation, some slovenly baits were swallowed. Sometimes the adherents to the constitution were called ministerial tools, at others, kings, lords and commons, were the tools of them; for almost every act of parliament that has been made respecting America, in the present reign, we were told was drafted in Boston, or its environs, and only sent to England to run through the forms of parliament. Such stories, however improbable, gained credit; even the fictitious bill for restraining marriages and murdering bastard children, met with

some simple enough to think it real. He that readily imbibes such absurdities, may claim affinity with the person mentioned by Mr. Addison, that made it his practice to swallow a chimera every morning for breakfast. To be more serious, I pity the weakness of those that are capable of being thus duped, almost as much as I despise the wretch that would avail himself of it, to destroy private characters and the public tranquility. By such infamous methods, many of the ancient, trusty and skilful pilots, who had steered the community safely in the most perilous times, were driven from the helm, and their places occupied by different persons, some of whom, bankrupts in fortune, business and fame, are now striving to run the ship on the rocks, that they may have an opportunity of plundering the wreck. The gentlemen named by Novanglus, have nevertheless persevered with unshaken constancy and firmness, in their patriotic principles and conduct, through a variety of fortune; and have at present, the mournful consolation of reflecting, that had their admonitions and councils been timely attended to, their country would never have been involved in its present calamity.

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the

Province of Massachusetts Bay,

March 13, 1775.

MY DEAR COUNTRYMEN,

OUR patriotic writers, as they call each other, estimate the services rendered by, and the advantages resulting from the colonies to Britain, at a high rate, but allow but little, if any, merit in her towards the colonies. Novanglus would persuade us that exclusive of her assistance in the last war, we have had but little of her protection, unless it was such as her name alone afforded. Dr. Franklin when before the house of commons, in 1765, denied that the late war was entered into for the defence of the people in America. The Pennsylvania Farmer tells us in his letters, that the war was undertaken solely for the benefit of Great Britain, and that however advantageous the subduing or keeping any of these countries, viz. Canada, Nova-Scotia and the Floridas may be to Great Britain, the acquisition is greatly injurious to these colonies. And that the colonies, as constantly as streams tend to the ocean, have been pouring the fruits of all their labours into their mother's lap. Thus, they would induce us to believe, that we derive little or no advantage from Great Britain, and thence they infer the injustice, rapacity and cruelty of her conduct towards us. I fully agree with them, that the services rendered by the colonies are great and meritorious. The plantations are additions to the empire of inestimable value. The American market for British manufactures, the great

nursery for seamen formed by our shipping, the cultivation of deserts, and our rapid population, are increasing and inexhaustible sources of national wealth and strength. I commend these patriots for their estimations of the national advantages accruing from the colonies, as much as I think them deserving of censure for depreciating the advantages and benefits that we derive from Britain. A particular inquiry into the protection afforded us, and the commercial advantages resulting to us from the parent state, will go a great way towards conciliating the affections of those whose minds are at present unduly impressed with different sentiments towards Great Britain. The intestine commotions with which England was convulsed and torn soon after the emigration of our ancestors, probably prevented that attention being given to them in the earliest stages of this colony, that otherwise would have been given. The principal difficulties that the adventurers met with after the struggle of a few of the first years were over, were the incursions of the French and savages conjointly, or of the latter instigated and supported by the former. Upon a representation of this to England, in the time of the interregnum, Acadia, which was then the principal source of our disquietude, was reduced by an English armament. At the request of this colony, in queen Ann's reign, a fleet of fifteen men of war, besides transports, troops, &c. were sent to assist us in an expedition against Canada; the fleet suffered ship-wreck, and the attempt proved abortive. It ought not to be forgot, that the siege of Louisbourg, in 1745, by our own forces, was covered by a British fleet of ten ships, four of 60 guns, one of 50, and five of 40 guns, besides the Vigilant of 64, which was taken during the siege, as she was attempting to throw supplies

into the garrison. It is not probable that the expedition would have been undertaken without an expectation of some naval assistance, or that the reduction could have been effected without it. In January, 1754, our assembly, in a message to governor Shirley, prayed him to represent to the king, "that the French had made such extraordinary encroachments, and taken such measures, since the conclusion of the preceding war, as threatened great danger, and perhaps, in time, even the entire destruction of this province, without the interposition of his majesty, notwithstanding any provision we could make to prevent it." "That the French had erected a fort on the isthmus of the peninsula near Bay Vert in Nova Scotia, by means of which they maintained a communication by sea with Canada, St. John's Island and Louisbourg." "That near the mouth of St. John's river, the French had possessed themselves of two forts formerly built by them, one of which was garrisoned by regular troops, and had erected another strong fort at twenty leagues up the river, and that these encroachments might prove fatal not only to the eastern parts of his majesty's territories within this province, but also in time to the whole of this province, and the rest of his majesty's territories on this continent." "That whilst the French held Acadia under the treaty of St. Germain, they so cut off the trade of this province, and galled the inhabitants with incursions into their territories, that OLIVER CROMWELL found it necessary for the safety of New England to make a descent by sea into the river of St. John, and dispossess them of that and all the forts in Acadia. That Acadia was restored to the French by the treaty of Breda in 1667." That this colony felt again the same mischievous effects from their possessing it,

insomuch, that after forming several expeditions against it, the inhabitants were obliged in the latter end of the war in queen Ann's reign, to represent to her majesty how destructive the possession of the bay of Fundy and Nova Scotia, by the French, was to this province and the British trade; whereupon the British ministry thought it necessary to fit out a *formal expedition against that province with English troops*, and a considerable armament of our own, under general Nicholson, by which it was again reduced to the subjection of the crown of Great Britain. "That we were then, viz. in 1754, liable to feel more mischievous effects than we had ever yet done, unless his majesty should be graciously pleased to cause them to be removed." They also demonstrated our danger from the encroachments of the French at Crown Point. In April, 1754, the council and house represented, "That it evidently appeared, that the French were so far advanced in the execution of a plan projected more than fifty years since, for the extending their possessions from the mouth of the Mississippi on the south, to Hudson's Bay on the north, for securing the vast body of Indians in that inland country, and for subjecting the whole continent to the crown of France." "That many circumstances gave them great advantages over us, which if not attended to, would soon overbalance our superiority of numbers; and that these advantages could not be removed without his majesty's gracious interposition."

The assembly of Virginia, in an address to the king, represented, "that the endeavours of the French to establish a settlement upon the frontiers, was a high insult offered to his majesty, and if not timely opposed, with vigor and resolution, must be attended with the most fatal consequences," and prayed his

majesty to extend his royal beneficence towards them.

The commissioners who met at Albany the same year, represented, "that it was the evident design of the French to surround the British colonies; to fortify themselves on the back thereof; to take and keep possession of the heads of all the important rivers; to draw over the Indians to their interest, and with the help of such Indians, added to such forces as were then arrived, and might afterwards arrive, or be sent from Europe, to be in a capacity of making a general attack on the several governments; and if at the same time a strong naval force should be sent from France, there was the utmost danger that the whole continent would be subjected to the crown." "That it seemed absolutely necessary that speedy and effectual measures should be taken to secure the colonies from the *slavery* they were threatened with."

We did not pray in vain. Great Britain, ever attentive to the *real grievances* of her colonies, hastened to our relief with maternal speed. She covered our seas with her ships, and sent forth the bravest of her sons to fight our battles. They fought, they bled and conquered with us. Canada, Nova Scotia, the Floridas, and all our American foes were laid at our feet. It was a dear bought victory; the wilds of America were enriched with the blood of the noble and the brave.

The war, which at our request, was thus kindled in America, spread through the four quarters of the globe, and obliged Great Britain to exert her whole force and energy to stop the rapid progress of its devouring flames.

To these instances of actual exertions for our

immediate protection and defence, ought to be added, the fleets stationed on our coast and the convoys and security afforded to our trade and fishery, in times of war; and her maintaining in times of peace such a navy and army, as to be always in readiness to give protection as exigencies may require; and her ambassadors residing at foreign courts to watch and give the earliest intelligence of their motions. By such precautions every part of her wide extended empire enjoys as ample security as human power and policy can afford. Those necessary precautions are supported at an immense expense, and the colonies reap the benefit of them equally with the rest of the empire. To these considerations it should likewise be added, that whenever the colonies have exerted themselves in war, though in their own defence, to a greater degree than their proportion with the rest of the empire, they have been reimbursed by parliamentary grants. This was the case, in the last war, with this province.

From this view, which I think is an impartial one, it is evident that Great Britain is not less attentive to our interest than her own; and that her sons that have settled on new and distant plantations are equally dear to her with those that cultivate the ancient domain, and inhabit the mansion house.

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the Province of Massachusetts Bay,

March 20, 1775.

MY DEAR COUNTRYMEN,

THE outlines of British commerce have been heretofore sketched; and the interest of each part, in particular, and of the whole empire conjointly, have been shewn to be the principles by which the grand system is poized and balanced. Whoever will take upon himself the trouble of reading and comparing the several acts of trade, which respect the colonies, will be convinced, that the cherishing their trade, and promoting their interest, have been the objects of parliamentary attention, equally with those of Britain. He will see, that the great council of the empire has ever esteemed our prosperity as inseperable from the British, and if in some instances the colonies have been restricted to the emolument of other parts of the empire, they, in their turn, not excepting England itself, have been also restricted sufficiently to restore the balance, if not to cause a preponderation in our favour.

Permit me to transcribe a page or two from a pamphlet written in England, and lately republished here, wherein this matter is stated with great justice and accuracy.

"The people of England and the American adventurers, being so differently circumstanced, it

required no great sagacity to discover, that as there were many commodities which America could supply on better terms than they could be raised in England, so must it be much more for the colonies, advantage to take others from England, than attempt to make them themselves. The American lands were cheap, covered with woods, and abounded with native commodities. The first attention of the settlers was necessarily engaged in cutting down the timber, and clearing the ground for culture; for before they had supplied themselves with provisions, and had hands to spare from agriculture, it was impossible they could set about manufacturing. England, therefore, undertook to supply them with manufactures, and either purchased herself or found markets for the timber the colonists cut down upon their lands, or the fish they caught upon their coasts. It was soon discovered that the tobacco plant was a native of and flourished in Virginia. It had been also planted in England, and was found to delight in the soil. The legislature, however, wisely and equitably considering that England had variety of products, and Virginia had no other to buy her necessaries with, passed an act prohibiting the people of England from planting tobacco, and thereby giving the monopoly of that plant to the colonies. As the inhabitants increased, and the lands became more cultivated, further and new advantages were thrown in the way of the American colonies. All foreign markets, as well as Great-Britain, were open for their timber and provisions, and the British West-India islands were prohibited from purchasing those commodities from any other than them. And since England has found itself in danger of wanting a supply of timber, and it has been judged necessary to confine the export from America to Great-Britain and

Ireland, full and ample indemnity has been given to the colonies for the loss of a choice of markets in Europe, by very large bounties paid out of the revenue of Great Britain, upon the importation of American timber. And as a further encouragement and reward to them for clearing their lands, bounties are given upon tar and pitch, which are made from their decayed and useless trees; and the very ashes of their lops and branches are made of value by the late bounty on American pot-ashes. The soil and climate of the northern colonies having been found well adapted to the culture of flax and hemp, bounties, equal to half the first cost of those commodities, have been granted by parliament, payable out of the British revenue, upon their importation into Great Britain. The growth of rice in the southern colonies has been greatly encouraged, by prohibiting the importation of that grain into the British dominions from other parts, and allowing it to be transported from the colonies to the foreign territories in America, and even to the southern parts of Europe. Indigo has been nurtured in those colonies by great parliamentary bounties, which have been long paid upon the importation into Great Britain; and of late are allowed to remain, even when it is carried out again to foreign markets. Silk and wine have also been objects of parliamentary munificence; and will one day probably become considerable American products under that encouragement. In which of these instances, it may be demanded, has the legislature shown itself partial to the people of England and unjust to the colonies? Or wherein have the colonies been injured? We hear much of the restraints under which the trade of the colonies is laid by acts of parliament for the advantage of Great Britain, but the restraints under which the people of

Great Britain are laid by acts of parliament for the advantage of the colonies, are carefully kept out of sight; and yet, upon a comparison the one will be found full as grievous as the other. For is it a greater hardship on the colonies, to be confined in some instances to the markets of Great Britain for the sale of their commodities, than it is on the people of Great Britain to be obliged to buy the commodities from them only? If the island colonies are obliged to give the people of Great Britain the pre-emption of their sugar and coffee, is it not a greater hardship on the people of Great Britain to be restrained from purchasing sugar and coffee from other countries, where they could get those commodities much cheaper than the colonies make them pay for them? Could not our manufactures have indigo much better and cheaper from France and Spain than from Carolina? And yet is there not a duty imposed by acts of parliament on French and Spanish indigo, that it may come to our manufacturers at a dearer rate than Carolina indigo, though a bounty is also given out of *the money* of the people of England to the Carolina planter, to enable him to sell his indigo upon a *par* with the French and Spanish? But the instance which has already been taken notice of, the act which prohibits the culture of the tobacco plant in Great Britain or Ireland, is still more in point, and a more striking proof of the justice and impartiality of the supreme legislature; for what restraints, let me ask, are the colonies laid under, which bear so strong marks of hardship, as the prohibiting the farmers in Great Britain and Ireland from raising upon their own lands, a product which is become almost a necessary of life to them and their families? And this most extraordinary restraint is laid upon them, for the avowed and sole purpose of giving Virginia and

Maryland a monopoly of that commodity, and obliging the people of Great Britain and Ireland to buy all the tobacco they consume, from them, at the prices they think fit to sell it for. The annals of no country, that ever planted colonies, can produce such an instance as this of regard and kindness to their colonies, and of restraint upon the inhabitants of the mother country for their advantage. Nor is there any restraint laid upon the inhabitants of the colonies in return, which carries with it so great appearance of hardships, although the people of Great Britain and Ireland have, from their regard and affection to the colonies, submitted to it without a murmur for near a century." For a more particular inquiry, let me recommend the perusal of the pamphlet itself, also another pamphlet lately published, entitled, "the advantages which America derives from her commerce, connection and dependance on Great Britain."

A calculation has lately been made both of the amount of the revenue arising from the duties with which our trade is at present charged, and of the bounties and encouragement paid out of the British revenue upon articles of American produce imported into England, and the latter is found to exceed the former more than four fold. This does not look like a partiality to our disadvantage. However, there is no surer method of determining whether the colonies have been oppressed by the laws of trade and revenue, than by observing their effects.

From what source has the wealth of the colonies flowed? Whence is it derived? Not from agriculture only: exclusive of commerce the colonists would this day have been a poor people, possessed of little more than the necessaries for supporting life; of course

their numbers would be few; for population always keeps pace with the ability of maintaining a family; there would have been but little or no resort of strangers here; the arts and sciences would have made but small progress; the inhabitants would rather have degenerated into a state of ignorance and barbarity. Or had Great Britain laid such restrictions upon our trade, as our patriots would induce us to believe, that is, had we been pouring the fruits of all our labour into the lap of our parent and been enriching her by the sweat of our brow, without receiving an equivalent, the patrimony derived from our ancestors must have dwindled from little to less, until their posterity should have suffered a general bankruptcy.

But how different are the effects of our connection with, and subordination to Britain? They are too strongly marked to escape the most careless observer. Our merchants are opulent, and our yeomanry in easier circumstances than the noblesse of some states. Population is so rapid as to double the number of inhabitants in the short period of twenty-five years. Cities are springing up in the depths of the wilderness. Schools, colleges, and even universities are interspersed through the continent; our country abounds with foreign refinements, and flows with exotic luxuries. These are infallible marks not only of opulence but of freedom. The recluse may speculate—the envious repine—the disaffected calumniate—all these may combine to excite fears and jealousies in the minds of the multitude, and keep them in alarm from the beginning to the end of the year; but such evidence as this must for ever carry conviction with it to the minds of the dispassionate and judicious.

Where are the traces of the slavery that our patriots would terrify us with? The effects of slavery are as glaring and obvious in those countries that are cursed with its abode, as the effects of war, pestilence or famine. Our land is not disgraced by the wooden shoes of France, or the uncombed hair of Poland: we have neither racks nor inquisitions, tortures or assassinations: the mildness of our criminal jurisprudence is proverbial, "*a man must have many friends to get hanged in New England*." Who has been arbitrarily imprisoned, disseized of his freehold, or despoiled of his goods? Each peasant, that is industrious, may acquire an estate, enjoy it in his life time, and at his death, transmit a fair inheritance to his posterity. The protestant religion is established, as far as human laws can establish it. My dear friends, let me ask each one whether he has not enjoyed every blessing, that is in the power of civil government to bestow? And yet the parliament has, from the earliest days of the colonies, claimed the lately controverted right, both of legislation and taxation; and for more than a century has been in the actual exercise of it. There is no grievious exercise of that right at this day, unless the measures taken to prevent our revolting, may be called grievances. Are we, then, to rebel, lest there should be grievances? Are we to take up arms and make war against our parent, lest that parent, contrary to the experience of a century and a half, contrary to her own genius, inclination, affection and interest, should treat us or our posterity as bastards and not as sons, and instead of protecting should *enslave* us? The annals of the world have not yet been deformed with a single instance of so unnatural, so causless, so wanton, so wicked a rebellion.

There is but a step between you and ruin: and should

our patriots succeed in their endeavours to urge you on to take that step, and hostilities actually commence, New England will stand recorded a singular monument of human folly and wickedness. I beg leave to transcribe a little from the Farmer's letters.—"Good Heaven! Shall a total oblivion of former tendernesses and blessings be spread over the minds of a good and wise people by the sordid arts of intriguing men, who covering their selfish projects under pretences of public good, first enrage their countrymen into a frenzy of passion, and then advance their own influence and interest by gratifying the passion, which they themselves have excited?" When cool dispassionate posterity shall consider the affectionate intercourse, the reciprocal benefits, and the unsuspecting confidence, that have subsisted between these colonies and their parent state, for such a length of time, they will execrate, with the bitterest curses, the infamous memory of those men whose ambition unnecessarily, wantonly, cruelly, first opened the sources of civil discord.

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the Province of Massachusetts Bay,

March 27, 1775.

MY DEAR COUNTRYMEN,

OUR patriots exclaim, "that humble and reasonable petitions from the representatives of the people have been frequently treated with contempt." This is as virulent a libel upon his majesty's government, as falshood and ingenuity combined could fabricate. Our humble and reasonable petitions have not only been ever graciously received, when the established mode of exhibiting them has been observed, but generally granted. Applications of a different kind, have been treated with neglect, though not always with the contempt they deserved. These either originated in illegal assemblies, and could not be received without implicitly countenancing such enormities, or contained such matter, and were conceived in such terms, as to be at once an insult to his majesty, and a libel on his government. Instead of being decent remonstrances against real grievances, or prayers for their removal, they were insidious attempts to wrest from the crown, or the supreme legislature, their inherent, unalienable prerogatives or rights.

We have a recent instance of this kind of petition, in the application of the continental congress to the king, which starts with these words: "A standing army has been kept in these colonies ever since the conclusion of the late war, *without the consent of our assemblies*." This is a denial of the king's authority to station his military forces in such parts of the empire, as his majesty may judge expedient for the common safety. They might with equal propriety have

advanced one step further, and denied its being a prerogative of the crown to declare war, or conclude a peace, by which the colonies should be affected, without the consent of our assemblies. Such petitions carry the marks of death in their faces, as they cannot be granted but by surrendering some constitutional right at the same time; and therefore afford grounds for suspicion at least, that they were never intended to be granted, but to irritate and provoke the power petitioned to. It is one thing to remonstrate the inexpediency or inconveniency of a particular act of the prerogative, and another to deny the existence of the prerogative. It is one thing to complain of the inutility or hardship of a particular act of parliament, and quite another to deny the authority of parliament to make any act. Had our patriots confined themselves to the former, they would have acted a part conformable to the character they assumed, and merited the encomiums they arrogate.

There is not one act of parliament that respects us, but would have been repealed, upon the legislators being convinced, that it was oppressive; and scarcely one, but would have shared the same fate, upon a representation of its being generally disgustful to America. But, by adhering to the latter, our politicians have ignorantly or wilfully betrayed their country. Even when Great Britain has relaxed in her measures, or appeared to recede from her claims, instead of manifestations of gratitude, our politicians have risen in their demands, and sometimes to such a degree of insolence, as to lay the British government under a necessity of persevering in its measures to preserve its honour.

It was my intention, when I began these papers, to

have minutely examined the proceedings of the continental congress, as the delegates appear to me to have given their country a deeper wound, than any of their predecessors had inflicted, and I pray God it may not prove an incurable one; but am in some measure anticipated by Grotius, Philepareine, and the many pamphlets that have been published; and shall therefore confine my observations to some of its most striking and characteristic features.

A congress or convention of committees from the several colonies, constitutionally appointed by the supreme authority of the state, or by the several provincial legislatures, amenable to, and controulable by the power that convened them, would be salutary in many supposeable cases. Such was the convention of 1754; but a congress otherwise appointed, must be an unlawful assembly, wholly incompatible with the constitution, and dangerous in the extreme, more especially as such assemblies will ever chiefly consist of the most violent partizans. The prince, or sovereign, as some writers call the supreme authority of a state, is sufficiently ample and extensive to provide a remedy for every wrong, in all possible emergencies and contingencies; consequently a power, that is not derived from such authority, springing up in a state, must encroach upon it, and in proportion as the usurpation enlarges itself, the rightful prince must be diminished; indeed, they cannot long subsist together, but must continually militate, till one or the other be destroyed. Had the continental congress consisted of committees from the several houses of assembly, although destitute of the consent of the several governors, they would have had some appearance of authority; but many of them were

appointed by other committees, as illegally constituted as themselves. However, at so critical and delicate a juncture, Great Britain being alarmed with an apprehension, that the colonies were aiming at independence on the one hand, and the colonies apprehensive of grievous impositions and exactions from Great Britain on the other; many real patriots imagined, that a congress might be eminently serviceable, as they might prevail on the Bostonians to make restitution to the East India company, might still the commotions in this province, remove any ill-founded apprehensions respecting the colonies, and propose some plan for a cordial and permanent reconciliation, which might be adopted by the several assemblies, and make its way through them to the supreme legislature. Placed in this point of light, many good men viewed it with an indulgent eye, and tories, as well as whigs, bade the delegates God speed.

The path of duty was too plain to be overlooked; but unfortunately some of the most influential of the members were the very persons that had been the *wilful* cause of the evils they were expected to remedy. Fishing in troubled waters had long been their business and delight; and they deprecated nothing more than that the storm they had blown up, should subside. They were old in intrigue, and would have figured in a conclave. The subtility, hypocrisy, cunning, and chicanery, habitual to such men, were practised with as much success in this, as they had been before in other popular assemblies.

Some of the members, of the first rate abilities and characters, endeavoured to confine the deliberations and resolves of the congress to the design of its institution, which was "to restore peace, harmony,

and mutual confidence," but were obliged to succumb to the intemperate zeal of some, and at length were so circumvented and wrought upon by the artifice and duplicity of others, as to lend the sanction of their names to such measures, as they condemned in their hearts. *Vide* a pamphlet published by one of the delegates, entitled, "A candid examination, &c."

The congress could not be ignorant of what every body else knew, that their appointment was repugnant to, and inconsistent with every idea of government, and therefore wisely determined to destroy it. Their first essay that transpired, and which was matter of no less grief to the friends of our country, than of triumph to its enemies, was the ever memorable resolve approbating and adopting the Suffolk resolves, thereby undertaking to give a continental sanction to a forcible opposition to acts of parliament, shutting up the courts of justice, and thereby abrogating all human laws, seizing the king's provincial revenue, raising forces in opposition to the king's, and all the tumultuary violence, with which this unhappy province had been rent asunder.

This fixed the complexion, and marked the character of the congress. We were, therefore, but little surprized, when it was announced, that as far as was in their power, they had dismembered the colonies from the parent country. This they did by resolving, that "the colonists are entitled to an exclusive power of legislation in their several provincial legislatures." This stands in its full force, and is an absolute denial of the authority of parliament respecting the colonies.

Their subjoining that, "*from necessity* they consent to

the *operation* (not the authority) of such acts of the *British* parliament, as *are* (not shall be) *bona fide* restrained to external commerce," is so far from weakening their first principle, that it strengthens it, and is an adoption of the acts of trade. This resolve is a manifest revolt from the British empire. Consistent with it, is their overlooking the supreme legislature, and addressing the inhabitants of Great Britain, in the style of a manifesto, in which they flatter, complain, coax, and threaten alternately; and their prohibiting all commercial intercourse between the two countries: with equal propriety and justice the congress might have declared war against Great Britain; and they intimate that they might justly do it, and actually shall, if the measures already taken prove ineffectual. For in the address to the colonies, after attempting to enrage their countrymen by every colouring and heightning in the power of language, to the utmost pitch of frenzy, they say, "the state of these colonies would certainly justify *other* measures than we have advised; we were inclined to offer *once more* to his *majesty* the petition of his faithful and oppressed subjects in America," and admonish the colonists to extend their views to *mournful events*, and to be in all respects prepared for every contingency.

This is treating Great Britain as an alien enemy; and if Great Britain be such, it is justifiable by the law of nations. But their attempt to alienate the affections of the inhabitants of the new conquered province of Quebec from his majesty's government, is altogether unjustifiable, even upon that principle. In the truly jesuitical address to the Canadians, the congress endeavour to seduce them from their allegiance, and prevail on them to join the confederacy. After insinuating that they had been tricked, duped,

oppressed and enslaved by the Quebec bill, the congress exclaim, why this degrading distinction? "Have not Canadians sense enough to attend to any other public affairs, than gathering stones from one place and piling them up in another? Unhappy people; who are not only injured but *insulted*." "Such a treacherous ingenuity has been exerted, in drawing up the code lately offered you, that every sentence, beginning with a benevolent pretention, concludes with a destructive power; and the substance of the whole divested of its smooth words, is that the *crown* and its ministers shall be as absolute throughout your extended province, as the *despots of Asia or Africa*. We defy you, casting your view upon every side, to discover a single circumstance promising, from any quarter, the faintest hope of liberty to you or your posterity, but from an entire adoption into the union of these colonies." The treachery of the congress in this address is the more flagrant, by the Quebec bill's having been adapted to the genius and manners of the Canadians, formed upon their own petition, and received with every testimonial of gratitude. The public tranquility has been often disturbed by treasonable plots and conspiracies. Great Britain has been repeatedly deluged by the blood of its slaughtered citizens, and shaken to its centre by rebellion. To offer such aggravated insult to British government was reserved for *the grand continental congress*. None but ideots or madmen could suppose such measures had a tendency to restore "union and harmony between Great Britain and the colonies." Nay! The very demands of the congress evince, that that was not in their intention. Instead of confining themselves to those acts, which occasioned the misunderstanding, they demand a repeal of fourteen, and bind the colonies by a law

not to trade with Great Britain, until that shall be done. Then, and not before, the colonists are to treat Great Britain as an alien friend, and in no other light is the parent country ever after to be viewed; for the parliament is to surcease enacting laws to respect us forever. These demands are such as cannot be complied with, consistent with either the honor or interest of the empire, and are therefore insuperable obstacles to a union *via* congress.

The delegates erecting themselves into the states general or supreme legislature of all the colonies, from *Nova Scotia* to *Georgia*, does not leave a doubt respecting their aiming, in good earnest, at independency: this they did by enacting laws. Although they recognize the authority of the several provincial legislatures, yet they consider their own authority as paramount or supreme; otherwise they would not have acted decisively, but submitted their plans to the final determination of the assemblies. Sometimes indeed they use the terms request and recommend; at others they speak in the style of authority. Such is the resolve of the 27th of September: "Resolved from and after the first day of December next, there be no importation into British America from Great Britain or Ireland of any goods, wares or merchandize whatsoever, or from any other place of any such goods, wares or merchandize, as shall have been exported from Great Britain or Ireland, and that no such goods, wares or merchandize imported, after the said first day of December next, be used or purchased." October 15, the congress resumed the consideration of the plan for carrying into effect the non-importation, &c. October 20, the plan is compleated, determined upon, and ordered to be subscribed by all the members: they call it an association, but it has all the

constituent parts of a law. They begin, "We his majesty's most loyal subjects the delegates of the several colonies of, &c. deputed to *represent them* in a continental congress," and agree for themselves and the inhabitants of the several colonies whom they represent, not to import, export or consume, &c. as also to observe several sumptuary regulations under certain penalties and forfeitures, and that a committee be chosen in every county, city and town, by those who are qualified to vote for representatives in the legislature, to see that the association be observed and kept, and to punish the violators of it; and afterwards, "recommend it to the provincial conventions, and to the committees in the respective colonies to establish such further regulations, as they may think proper, for carrying into execution the association." Here we find the congress enacting laws, that is, establishing, as the representatives of the people, certain rules of conduct to be observed and kept by all the inhabitants of these colonies, under certain pains and penalties, such as masters of vessels being dismissed from their employment; goods to be seized and sold at auction, and the first cost only returned to the proprietor, a different appropriation made of the overplus; persons being stigmatized in the gazette, as enemies to their country, and excluded the benefits of society, &c.

The congress seem to have been apprehensive that some squeamish people might be startled at their assuming the powers of legislation, and therefore, in the former part of their association say, they bind themselves and constituents under the sacred ties of virtue, honor, and love to their country, afterwards establish penalties and forfeitures, and conclude by solemnly binding themselves and constituents under the ties aforesaid, which include them all. This looks

like artifice: but they might have spared themselves that trouble; for every law is or ought to be made under the sacred ties of virtue, honor and a love to the country, expressed or implied, though the penal sanction be also necessary. In short, were the colonies distinct states, and the powers of legislation vested in delegates thus appointed, their association would be as good a form of enacting laws as could be devised.

By their assuming the powers of legislation, the congress have not only superseded our provincial legislatures, but have excluded every idea of monarchy; and not content with the havock already made in our constitution, in the plenitude of their power, have appointed another congress to be held in May.

Those, that have attempted to establish new systems, have generally taken care to be consistent with themselves. Let us compare the several parts of the continental proceedings with each other.

The delegates call themselves and constituents "his majesty's most loyal subjects," his majesty's most faithful subjects affirm, that the colonists are entitled "to all the immunities and privileges granted and confirmed to them by royal charters," declare that they "wish not a diminution of the prerogative, nor solicit the grant of any new right or favour," and they "shall always carefully and zealously endeavour to support his royal authority and our connection with Great Britain;" yet deny the king's prerogative to station troops in the colonies, disown him in the capacity in which he granted the provincial charters; disclaim the authority of the king in parliament; and undertake to enact and execute laws without any

authority derived from the crown. This is dissolving all connection between the colonies and the crown, and giving us a new king, altogether incomprehensible, not indeed from the infinity of his attributes, but from a privation of every royal prerogative, and not leaving even a semblance of a connection with Great Britain.

They declare, that the colonists "are entitled to all the rights, liberties and immunities of free and natural born subjects within the realm of England," and "all the benefits secured to the subject by the English constitution," but disclaim all obedience to British government; in other words, they claim the protection, and disclaim the allegiance. They remonstrate as a grievance that "both houses of parliament have resolved that the colonists may be tried in England for offences, alleged to have been committed in America, by virtue of a statute passed in the thirty-fifth year of Henry the eighth; and yet resolve that they are entitled to the benefit of such English statutes, as existed at the time of their colonization, and are applicable to their several local and other circumstances." They resolve that the colonists are entitled to a free and *exclusive* power of legislation in their several provincial assemblies; yet undertake to legislate in congress.

The immutable laws of nature, the principles of the English constitution, and our several charters are the basis, upon which they pretend to found themselves, and complain more especially of being deprived of trials by juries; but establish ordinances incompatible with either the laws of nature, the English constitution, or our charter; and appoint committees to punish the violaters of them, not only without a jury, but even without a form of trial.

They repeatedly complain of the Roman Catholic religion being established in Canada; and in their address to the Canadians, ask, "If liberty of conscience be offered them *in their religion* by the Quebec bill," and answer, "no: God gave it to you and the temporal powers, with which you have been and are connected, firmly stipulated for your enjoyment of it. If laws, *divine* and *human*, could secure it against the despotic caprices of wicked men, it was secured before."

They say to the people of Great Britain, "place us in the same situation, that we were in, at the close of the last war, and our harmony will be restored." Yet some of the principal grievances, which are to be redressed, existed long before that era, viz. The king's keeping a standing army in the colonies; judges of admiralty receiving their fees, &c. from the effects condemned by themselves; counsellors holding commissions during pleasure, exercising legislative authority; and the capital grievance of all, the parliament claiming and exercising over the colonies a right both of legislation and taxation. However the wisdom of the grand continental congress may reconcile these seeming inconsistencies.

Had the delegates been appointed to devise means to irritate and enrage the inhabitants of the two countries, against each other, beyond a possibility of reconciliation, to abolish our equal system of jurisprudence, and establish a judicatory as arbitrary, as the Romish inquisition, to perpetuate animosities among ourselves, to reduce thousands from affluence to poverty and indigence, to injure Great Britain, Ireland, the West Indies, and these colonies, to

attempt a revolt from the authority of the empire, and finally to draw down upon the colonies the whole vengeance of Great Britain; more promising means to effect the whole could not have been devised than those the congress adopted. Any deviation from their plan would have been treachery to their constituents, and an abuse of the trust and confidence reposed in them. Some idolaters have attributed to the congress the collected wisdom of the continent. It is as near the truth to say, that every particle of disaffection, petulance, ingratitude, and disloyalty, that for ten years past have been scattered through the continent, were united and consolidated in them. Are these thy Gods, O Israel!

MASSACHUSETTENSIS.

ADDRESSED

To the Inhabitants of the Province of Massachusetts Bay,

April 3, 1775.

MY DEAR COUNTRYMEN,

THE advocates for the opposition to parliament often remind us of the rights of the people, repeat the

Latin adage *vox populi vox Dei*, and tell us that government in the dernier resort is in the people; they chime away melodiously, and to render their music more ravishing, tell us, that these are *revolution* principles. I hold the rights of the people as sacred, and revere the principles, that have established the succession to the imperial Crown of Great Britain, in the line of the illustrious house of Brunswick; but that the difficulty lies in applying them to the cause of the whigs, *hic labor hoc opus est*; for admitting that the collective body of the people, that are subject to the British empire, have an inherent right to change their form of government, or race of kings, it does not follow, that the inhabitants of a single province, or of a number of provinces, or any given part under a majority of the whole empire, have such a right. By admitting that the less may rule or sequester themselves from the greater, we unhinge all government. Novanglus has accused me of traducing the people of this province. I deny the charge. Popular demagogues always call themselves the people, and when their own measures are censured, cry out, the people, the people are abused and insulted. He says, that I once entertained different sentiments from those now advanced. I did not write to exculpate myself. If through ignorance, inadvertence or design, I have heretofore contributed in any degree, to the forming that destructive system of politics that is now in vogue, I was under the greater obligation thus publicly to expose its errors, and point out its pernicious tendency. He suggests, that I write from sordid motives. I despise the imputation. I have written my real sentiments not to serve a party (for, as he justly observes, I have sometimes quarreled with my friends) but to serve the public; nor would I injure my country to inherit

all the treasures that avarice and ambition sigh for. Fully convinced, that our calamities were chiefly created by the leading whigs, and that a persevering in the same measures that gave rise to our troubles would complete our ruin, I have written freely. It is painful to me to give offence to an individual, but I have not spared the ruinous policy of my brother or my friend; they are both far advanced. Truth, from its own energy, will finally prevail; but to have a speedy effect, it must sometimes be accompanied with severity. The terms whig and tory have been adopted according to the arbitrary use of them in this province, but they rather ought to be reversed; an American tory is a supporter of our excellent constitution, and an American whig a subverter of it.

Novanglus abuses me, for saying, that the whigs aim at independence. The writer from Hampshire county is my advocate. He frankly asserts the independency of the colonies without any reserve; and is the only consistent writer I have met with on that side of the question. For by separating us from the king as well as the parliament, he is under no necessity of contradicting himself. Novanglus strives to hide the inconsistencies of his hypothesis, under a huge pile of learning. Surely he is not to learn, that arguments drawn from obsolete maxims, raked out of the ruins of the feudal system, or from principles of absolute monarchy, will not conclude to the present constitution of government. When he has finished his essays, he may expect some particular remarks upon them. I should not have taken the trouble of writing these letters, had I not been satisfied that real and permanent good would accrue to this province, and indeed to all the colonies, from a speedy change of measures. Public justice and generosity are no less characteristic of the English, than their private

honesty and hospitality. The total repeal of the stamp act, and the partial repeal of the act imposing duties on paper, &c. may convince us that the nation has no disposition to injure us. We are blessed with a king that reflects honor upon a crown. He is so far from being avaricious, that he has relinquished a part of his revenue; and so far from being tyrannical, that he has generously surrendered part of his prerogative for the sake of freedom. His court is so far from being tinctured with dissipation, that the palace is rather an academy of the literati, and the royal pair are as exemplary in every private virtue, as they are exalted in their stations. We have only to cease contending with the supreme legislature, respecting its authority, with the king respecting his prerogatives, and with Great Britain respecting our subordination; to dismiss our illegal committees, disband our forces, despise the thraldom *arrogant congresses*, and submit to constitutional government, to be happy.

Many appear to consider themselves as *procul a Jove a fulmine procul*; and because we never have experienced any severity from Great Britain, think it impossible that we should. The English nation will bear much from its friends; but whoever has read its history must know, that there is a line that cannot be passed with impunity. It is not the fault of our patriots if that line be not already passed. They have demanded of Great Britain more than she can grant, consistent with honor, her interest, or our own, and are now brandishing the sword of defiance.

Do you expect to conquer in war? War is no longer a simple, but an intricate science, not to be learned from books or two or three campaigns, but from long experience. You need not be told that his majesty's

generals, Gage and Haldimand, are possessed of every talent requisite to great commanders, matured by long experience in many parts of the world, and stand high in military fame: that many of the officers have been bred to arms from their infancy, and a large proportion of the army *now* here, have already reaped immortal honors in the iron harvest of the field.—Alas! My friends, you have nothing to oppose to this force, but a militia unused to service, impatient of command, and destitute of resources. Can your officers depend upon the privates, or the privates upon the officers? Your war can be but little more than mere tumultuary rage: and besides, there is an awful disparity between troops that fight the battles of their sovereign, and those that follow the standard of rebellion. These reflections may arrest you in an hour that you think not of, and come too late to serve you. Nothing short of a miracle could gain you one battle; but could you destroy all the British troops that are now here, and burn the men of war that command our coast, it would be but the beginning of sorrow; and yet without a decisive battle, one campaign would ruin you. This province does not produce its necessary provision, when the husbandman can pursue his calling without molestation: what then must be your condition, when the demand shall be increased, and the resource in a manner cut off? Figure to yourselves what must be your distress, should your wives and children be driven from such places, as the king's troops shall occupy, into the interior parts of the province, and they as well as you, be destitute of support. I take no pleasure in painting these scenes of distress. The whigs affect to divert you from them by ridicule; but should war commence, you can expect nothing but its severities. Might I hazard an

opinion, but few of your leaders ever intended to engage in hostilities, but they may have rendered inevitable what they intended for intimidation. Those that unsheath the sword of rebellion may throw away the scabbard, they cannot be treated with, while in arms; and if they lay them down, they are in no other predicament than conquered rebels. The conquered in other wars do not forfeit the rights of men, nor all the rights of citizens, even their bravery is rewarded by a generous victor; far different is the case of a routed rebel host. My dear countrymen, you have before you, at your election, peace or war, happiness or misery. May the God of our forefathers direct you in the way that leads to peace and happiness, before your feet stumble on the dark mountains, before the evil days come, wherein you shall say, we have no pleasure in them.

MASSACHUSETTENSIS.

LETTERS

FROM THE

HON. JOHN ADAMS,

TO THE

HON. WM. TUDOR, AND OTHERS,

ON THE

EVENTS OF THE AMERICAN REVOLUTION.

TO THE EDITOR OF THE WEEKLY REGISTER.

Quincy, *January* 14, 1818.

MR. NILES,

IN a former letter I hazarded an opinion, that the true history of the American revolution could not be recovered. I had many reasons for that apprehension; one of which I will attempt to explain.

Of the determination of the British cabinet to assert and maintain the sovereign authority of parliament over the colonies, in all cases of taxation and internal

policy, the first demonstration which arrived in America was an *order in council* to the officers of the customs in Massachusetts Bay, to carry into execution *the acts of trade*, and to apply to the supreme judicature of the province for *writs of assistance*, to authorise them to break and enter all houses, cellars, stores, shops, ships, bales, casks, &c. to search and seize all goods, wares, and merchandizes, on which the taxes imposed by those acts had not been paid.

Mr. Cockle, of Salem, a deputy under Mr. Paxton, of Boston, the collector of the customs, petitioned the superior court in Salem, in November, 1760, for such a writ. The court doubted its constitutionality, and consequently its legality; but as the king's order ought to be considered, they ordered the question to be argued before them, by counsel, at the next February term in Boston.

The community was greatly alarmed. The merchants of Salem and of Boston, applied to Mr. Otis to defend them and their country, against that formidable instrument of arbitrary power. They tendered him rich fees; he engaged in their cause, but would accept no fees.

JAMES OTIS, of Boston, sprung from families among the earliest of the planters of the colonies, and the most respectable in rank, while the word rank, and the idea annexed to it, were tolerated in America. He was a gentleman of general science, and extensive literature. He had been an indefatigable student during the whole course of his education in college, and at the bar. He was well versed in Greek and Roman history, philosophy, oratory, poetry, and mythology, His classical studies had been unusually

ardent, and his acquisitions uncommonly great. He had composed a treatise on Latin prosody, which he lent to me, and I urged him to print. He consented. It is extant, and may speak for itself. It has been lately reviewed in the Anthology by one of our best scholars, at a mature age, and in a respectable station. He had also composed, with equal skill and great labour, a treatise on Greek prosody. This he also lent me, and, by his indulgence, I had it in my possession six months. When I returned it, I begged him to print it. He said there were no Greek types in the country, or, if there were, there was no printer who knew how to use them. He was a passionate admirer of the Greek poets, especially of Homer; and he said it was in vain to attempt to read the poets in any language, without being master of their prosody. This classic scholar was also a great master of the laws of nature and nations. He had read Puffendorph, Grotius, Barbeyrac, Burlamaqui, Vattel, Heineccius; and, in the civil law, Domal, Justinian, and, upon occasions, consulted the *corpus juris* at large. It was a maxim which he inculcated on his pupils, as his patron in profession, Mr. Gridley, had done before him, "*that a lawyer ought never to be without a volume of natural or public law, or moral philosophy, on his table, or in his pocket.*" In the history, the common law, and statute laws of England, he had no superior, at least in Boston.

Thus qualified to resist the system of usurpation and despotism, meditated by the British ministry, under the auspices of the earl of Bute, Mr. Otis resigned his commission from the crown, as advocate general, an office very lucrative at that time, and a sure road to the highest favours of government in America, and engaged in the cause of his country without fee or reward. His argument, speech, discourse, oration,

harangue—call it by which name you will, was the most impressive upon his crowded audience of any, that I ever heard before or since, excepting only many speeches by himself in Faneuil Hall, and in the House of Representatives, which he made from time to time, for ten years afterwards. There were no stenographers in those days. Speeches were not printed; and all that was not remembered, like the harangues of Indian orators, was lost in air. Who, at the distance of fifty seven years, would attempt, upon memory, to give even a sketch of it. Some of the heads are remembered, out of which Livy or Sallust would not scruple to compose an oration for history. I shall not essay an analysis or a sketch of it, at present. I shall only essay an analysis or a sketch of it, at present. I shall only say, and I do say in the most solemn manner, that Mr. Otis's oration, against *writs of assistance*, breathed into this nation the breath of life.

Although Mr. Otis had never before interfered in public affairs, his exertions, on this single occasion, secured him a commanding popularity with the friends of their country, and the terror and vengeance of her enemies; neither of which ever deserted him.

At the next election, in May, 1761, he was elected, by a vast majority, a representative in the legislature, of the town of Boston, and continued to be so elected annually for nine years. Here, at the head of the country interest, he conducted her cause with a fortitude, prudence, ability and perseverance which has never been exceeded in America, at every sacrifice of health, pleasure, profit and reputation, and against all the powers of government, and all the talents, learning, wit, scurrility and insolence of its

prostitutes.

Hampden was shot in open field of battle. Otis was basely assassinated in a coffee house, in the night, by a well dressed banditti, with a commissioner of the customs at their head.

During the period of nine years, that Mr. Otis was at the head of the cause of his country, he held correspondence with gentlemen in England, Scotland and various colonies in America. He must have written and received many letters, collected many pamphlets, and, probably, composed manuscripts, which might have illustrated the rising dawn of the revolution.

After my return from Europe, I asked his daughter whether she had found among her father's manuscripts, a treatise on Greek prosody? With hands and eyes uplifted, in a paroxysm of grief, she cried, "Oh! sir, I have not a line from my father's pen. I have not even his name in his own hand writing." When she was a little calmed, I asked her, "Who has his papers? Where are they?" She answered, "They are no more. In one of those unhappy dispositions of mind, which distressed him after his great misfortune, and a little before his death, he collected all his papers and pamphlets and committed them to the flames.—He was several days employed in it."

I cannot enlarge. I submit this hint to your reflections. Enclosed is a morsel of verse, written soon after Mr. Otis's death, by a very young gentleman, who is now one of our excellent magistrates. If you do not think fit to print this letter and that verse, I pray you to return them to

JOHN ADAMS.

On the death of JAMES OTIS, *killed by lightning, at Andover, soon after the peace of 1783, written at the time.*

When flush'd with conquest and elate with pride,
Britannia's monarch Heaven's high will defy'd;
And, bent on blood, by lust of rule inclin'd,
With odious chains to vex the freeborn mind;
On these young shores set up unjust command,
And spread the *slaves of office* round the land;
Then OTIS rose, and, great in patriot fame,
To list'ning crowds *resistance* dar'd proclaim.
From soul to soul the bright idea ran,
The fire of freedom flew from man to man,
His pen, like *Sidney's*, made the doctrine known,
His tongue, like *Tully's*, shook a tyrant's throne.
Then men grew bold, and, in the public eye,
The right divine of monarchs dar'd to try;
Light shone on all, despotic darkness fled—
And for a SENTIMENT a nation bled.
From men, like OTIS, INDEPENDENCE grew,
From such beginnings empire rose to view.
Born for the world, his comprehensive mind
Scann'd the wide politics of human kind:
Bless'd with a native strength and fire of thought,
With Greek and Roman learning richly fraught,
Up to the fountain head he push'd his view,
And from first principles his maxims drew.
'Spite of the times, this truth he blaz'd abroad,
"The people's safety is the law of GOD."[2]
For this he suffered; hireling slaves combin'd
To dress in shades the brightest of mankind.
And see they come, a dark designing band,
With Murder's heart and Execution's hand.
Hold, villains! Those polluted hands restrain;
Nor that exalted head with blows profane!
A nobler end awaits his patriot head;
In other sort he'll join the illustrious dead.
Yes! when the glorious work which he begun,
Shall stand the most complete beneath the sun—

When peace shall come to crown the grand design,
His eyes shall live to see the work divine.—
The Heavens shall then his generous spirit claim,
"In storms as loud as his immortal fame."[3]
Hark!—the deep thunders echo round the skies!
On wings of flame the eternal errand flies.
One chosen, charitable bolt is sped,
And OTIS mingles with the glorious dead.

TO THE SAME.

Quincy, *February* 13, 1818.

MR. NILES,

THE American Revolution was not a common event. Its effects and consequences have already been awful over a great part of the globe. And when and where are they to cease?

But what do we mean by the American revolution? Do we mean the American war? The revolution was effected before the war commenced. The revolution was in the minds and hearts of the people. A change in their religious sentiments, of their duties and obligations. While the king, and all in authority under him, were believed to govern in justice and mercy according to the laws and constitution derived to them from the God of nature, and transmitted to them by their ancestors—they thought themselves bound to pray for the king and queen and all the royal family, and all in authority under them; as

ministers ordained of God for their good. But when they saw those powers renouncing all the principles of authority, and bent upon the destruction of all the securities of their lives, liberties and properties, they thought it their duty to pray for the continental congress and all the thirteen state congresses, &c.

There might be, and there were others, who thought less about religion and conscience, but had certain habitual sentiments of allegiance and loyalty derived from their education; but believing allegiance and protection to be reciprocal, when protection was withdrawn, they thought allegiance was dissolved.

Another alteration was common to all. The people of America had been educated in an habitual affection for England as their mother country; and while they thought her a kind and tender parent (erroneously enough, however, for she never was such a mother) no affection could be more sincere. But when they found her a cruel Beldam, willing like lady Macbeth, to "dash their brains out," it is no wonder if their filial affections ceased and were changed into indignation and horror.

This radical change in the principles, opinions, sentiments and affections of the people, was the real American revolution.

By what means, this great and important alteration in the religious, moral, political and social character of the people of thirteen colonies, all distinct, unconnected and independent of each other, was begun, pursued and accomplished, it is surely interesting to humanity to investigate, and perpetuate to posterity.

To this end it is greatly to be desired that young

gentlemen of letters in all the states, especially in the thirteen original states, would undertake the laborious, but certainly interesting and amusing task, of searching and collecting all the records, pamphlets, newspapers, and even handbills, which in any way contributed to change the temper and views of *the people* and compose them into an independent nation.

The colonies had grown up under constitutions of government so different, there was so great a variety of religions, they were composed of so many different nations, their customs, manners and habits had so little resemblance, and their intercourse had been so rare and their knowledge of each other so imperfect, that to unite them in the same principles in theory and the same system of action, was certainly a very difficult enterprise. The complete accomplishment of it, in so short a time and by such simple means, was perhaps a singular example in the history of mankind. Thirteen clocks were made to strike together; a perfection of mechanism which no artist had ever before effected.

In this research, the glorioles of individual gentlemen and of separate states is of little consequence. The *means and the measures* are the proper objects of investigation. These may be of use to posterity, not only in this nation, but in South America and all other countries. They may teach mankind that revolutions are no trifles, that they ought never to be undertaken rashly; nor without deliberate consideration and sober reflection; nor without a solid, immutable, eternal foundation of justice and humanity; nor without a people possessed of intelligence, fortitude and integrity sufficient to carry them with steadiness, patience, and perseverance,

through all the vicissitudes of fortune, the fiery trials and melancholy disasters they may have to encounter.

The town of Boston early instituted an annual oration on the fourth of July, in commemoration of the principles and feelings which contributed to produce the revolution. Many of those orations I have heard, and all that I could obtain I have read. Much ingenuity and eloquence appears upon every subject, except those principles and feelings. That of my honest and amiable neighbour, Josiah Quincy, appeared to me the most directly to the purpose of the institution. Those principles and feelings ought to be traced back for two hundred years, and sought in the history of the country from the first plantations in America. Nor should the principles and feelings of the English and Scotch towards the colonies, through that whole period ever be forgotten. The perpetual discordance between British principles and feelings and of those of America, the next year after the suppression of the French power in America, came to a crisis, and produced an explosion.

It was not until after the annihilation of the French dominion in America, that any British ministry had dared to gratify their own wishes, and the desire of the nation, by projecting a formal plan for raising a national revenue from America, by parliamentary taxation. The first great manifestation of this design was by the order to carry into strict exertions those acts of parliament which were well known by the appellation of the *acts of trade*, which had lain a dead letter, unexecuted for a half a century, and some of them, I believe, for nearly a whole one.

This produced, in 1760 and 1761, *an awakening* and

a *revival* of American principles and feelings, with an enthusiasm which went on increasing, till in 1775 it burst out in open violence, hostility and fury.

The characters, the most conspicuous, the most ardent and influential in this revival, from 1760 to 1766, were, first and foremost, before all and above all, James Otis; next to him was Oxenbridge Thatcher; next to him, Samuel Adams; next to him, John Hancock; then Dr. Mayhew; then Dr. Cooper and his brother. Of Mr. Hancock's life, character, generous nature, great and disinterested sacrifices, and important services, if I had forces, I should be glad to write a volume. But this I hope will be done by some younger and abler hand. Mr. Thatcher, because his name and merits are less known, must not be wholly omitted.—This gentleman was an eminent barrister at law, in as large practice as any one in Boston. There was not a citizen of that town more universally beloved for his learning, ingenuity, every domestic and social virtue, and conscientious conduct in every relation of life. His patriotism was as ardent as his progenitors had been ancient and illustrious in this country. Hutchinson often said, "Thatcher was not born a plebeian, but he was determined to die one." In May, 1763, I believe, he was chosen by the town of Boston one of their representatives in the legislature, a colleague with Mr. Otis, who had been a member from May 1761, and he continued to be re-elected annually till his death in 1765, when Mr. Samuel Adams was elected to fill his place, in the absence of Mr. Otis, then attending the congress at New York. Thatcher had long been jealous of the unbounded ambition of Mr. Hutchinson, but when he found him not content with the office of lieut. governor, the command of the castle and its emoluments, of judge of probate for the

county of Suffolk, a seat in his majesty's council in the legislature, his brother in-law secretary of state by the king's commission, a brother of that secretary of state, a judge of the supreme court and a member of council, now in 1760 and 1761, soliciting and accepting the office of chief justice of the superior court of judicature, he concluded, as Mr. Otis did, and as every other enlightened friend of his country did, that he sought that office with the determined purpose of determining all causes in favor of the ministry at St. James's, and their servile parliament.

His indignation against him henceforward, to 1765, when he died, knew no bounds but truth. I speak from personal knowledge. For, from 1758 to 1765, I attended every superior and inferior court in Boston, and recollect not one, in which he did not invite me home to spend evenings with him, when he made me converse with him as well as I could, on all subjects of religion, morals, law, politics, history, philosophy, belles lettres, theology, mythology, cosmogony, metaphysics,—Lock, Clark, Leibnits, Bolingbroke, Berckley,—the pre-established harmony of the universe, the nature of matter and of spirit, and the eternal establishment of coincidences between their operations, fate, foreknowledge, absolute; and we reasoned on such unfathomable subjects as high as Milton's gentry in pandemonium; and we understood them as well as they did, and no better. To such mighty mysteries he added the news of the day, and the tittle tattle of the town. But his favourite subject was politics, and the impending threatening system of parliamentary taxation and universal government over the colonies. On this subject he was so anxious and agitated that I have no doubt it occasioned his premature death. From the time when he argued the question of writs of assistance, to his death he

considered the king, ministry, parliament and nation of G. B. as determined to new model the colonies from the foundation; to annul all their charters, to constitute them all royal governments; to raise a revenue in America by parliamentary taxation; to apply that revenue to pay the salaries of governours, judges and all other crown officers; and, after all this, to raise as large a revenue as they pleased, to be applied to national purposes at the exchequer in England; and further to establish bishops and the whole system of the church of England, tythes and all, throughout all British America. This system, he said, if it was suffered to prevail, would extinguish the flame of liberty all over the world; that America would be employed as an engine to batter down all the miserable remains of liberty in Great Britain and Ireland, where only any semblance of it was left in the world. To this system he considered Hutchinson, the Olivers and all their connections, dependants, adherents, shoelickers, &c. entirely devoted. He asserted that they were all engaged with all the crown officers in America and the understrappers of the ministry in England, in a deep and treasonable conspiracy to betray the liberties of their country, for their own private, personal and family aggrandizement. His philippicks against the unprincipled ambition and avarice of all of them, but especially of Hutchinson, were unbridled; not only in private, confidential conversations, but in all companies and on all occasions. He gave Hutchinson the sobriquet of "Summa Potestatis," and rarely mentioned him but by the name of "Summa." His liberties of speech were no secrets to his enemies. I have sometimes wondered that they did not throw him over the bar, as they did soon afterwards major Hawley. For they hated him worse than they did

James Otis, or Samuel Adams, and they feared him more, because they had no revenge for a father's disappointment of a seat on the superior bench to impute to him, as they did to Otis; and Thatcher's character through life had been so modest, decent, unassuming; his morals so pure, and his religion so venerated, that they dared not attack him. In his office were educated to the bar, two eminent characters, the late judge Lowell, and Josiah Quincy, aptly called the Boston Cicero. Mr. Thatcher's frame was slender, his constitution delicate; whether his physicians overstrained his vessels with mercury, when he had the small pox by inoculation at the castle, or whether he was overplied by public anxieties and exertions, the small pox left him in a decline from which he never recovered. Not long before his death he sent for me to commit to my care some of his business at the bar. I asked him whether he had seen the Virginia resolves: "Oh yes—they are men! they are noble spirits! It kills me to think of the lethargy and stupidity that prevails here. I long to be out. I will go out. I will go out. I will go into court, and make a speech which shall be read after my death, as my dying testimony against this infernal tyranny which they are bringing upon us." Seeing the violent agitation into which it threw him, I changed the subject as soon as possible, and retired. He had been confined for some time. Had he been abroad among the people, he would not have complained so pathetically of the "lethargy and stupidity that prevailed," for town and country were all alive; and in August became active enough, and some of the people proceeded to unwarrantable excesses, which were more lamented by the patriots than by their enemies. Mr. Thatcher soon died, deeply lamented by all the friends of their country.

Another gentleman, who had great influence in the commencement of the revolution, was doctor Jonathan Mayhew, a descendant of the ancient governor of Martha's Vineyard. This divine had raised a great reputation both in Europe and America, by the publication of a volume of seven sermons in the reign of king George the second, 1749, and by many other writings, particularly a sermon in 1750, on the thirtieth of January, on the subject of passive obedience and non-resistance; in which the saintship and martyrdom of king Charles the first are considered, seasoned with wit and satire superior to any in Swift or Franklin. It was read by every body; celebrated by friends and abused by enemies. During the reigns of king George the first and king George the second, the reigns of the Stuarts, the two Jameses and the two Charleses, were in general disgrace in England. In America they had always been held in abhorrence. The persecutions and cruelties suffered by their ancestors under those reigns, had been transmitted by history and tradition, and Mayhew seemed to be raised up to revive all their animosities against tyranny, in church and state, and at the same time to destroy their bigotry, fanaticism and inconsistency. David Hume's plausible, elegant, fascinating and fallacious apology, in which he varnished over the crimes of the Stuarts, had not then appeared. To draw the character of Mayhew would be to transcribe a dozen volumes. This transcendant genius threw all the weight of his great fame into the scale of his country in 1761, and maintained it there with zeal and ardor till his death in 1766. In 1763 appeared the controversy between him and Mr. Apthorp, Mr. Caner, Dr. Johnson and archbishop Secker, on the charter and conduct of the society for propagating the gospel in foreign parts.

To form a judgment of this debate I beg leave to refer to a review of the whole, printed at the time and written by Samuel Adams, though by some, very absurdly and erroneously, ascribed to Mr. Apthorp. If I am not mistaken, it will be found a model of candor, sagacity, impartiality, and close, correct reasoning.

If any gentleman supposes this controversy to be nothing to the present purpose, he is grossly mistaken. It spread an universal alarm against the authority of parliament. It excited a general and just apprehension, that bishops and diocesses and churches, and priests, and tythes, were to be imposed on us by parliament. It was known, that neither king, nor ministry, nor archbishops, could appoint bishops, in America, without an act of parliament, and if parliament could tax us, they could establish the church of England, with all its creeds, articles, tests, ceremonies, and tythes, and prohibit all other churches, as conventicles, and schism shops.

Nor must Mr. Cushing be forgotten. His good sense and sound judgment, the urbanity of his manners, his universal good character, his numerous friends and connections, and his continual intercourse with all sorts of people, added to his constant attachment to the liberties of his country, gave him a great and salutary influence from the beginning in 1760.

Let me recommend these hints to the consideration of Mr. Wirt, whose life of Mr. Henry I have read with great delight. I think that after mature investigation, he will be convinced, that Mr. Henry did not "give the first impulse to the ball of independence," and that Otis, Thatcher, Samuel Adams, Mayhew, Hancock, Cushing, and thousands of others, were

labouring for several years at the wheel, before the name of Henry was heard beyond the limits of Virginia.

If you print this, I will endeavour to send you something concerning Samuel Adams, who was destined to a longer career, and to act a more conspicuous, and perhaps a more important part than any other man. But his life would require a volume. If you decline printing this letter, I pray you to return it as soon as possible to,

Sir, Your humble servant,

JOHN ADAMS.

TO MR. WIRT.

Quincy, *January* 5, 1818.

SIR,

YOUR sketches of the life of Mr. Henry have given me a rich entertainment. I will not compare them to the Sybil, conducting Æneas to see the ghosts of departed sages and heroes in the region below, but to an angel, convoying me to the abodes of the blessed on high, to converse with the spirits of just men made perfect. The names of Henry, Lee, Bland, Pendleton, Washington, Rutledge, Dickinson, Wythe, and many others, will ever thrill through my veins with an agreeable sensation. I am not about to make any critical remarks upon your works, at present. But, sir,

Erant heroes ante Agamemnona multi.
Or, not to garble Horace,
Vixere fortes ante Agamemnona
Multi: sed omnes illacrimabiles
Urgentur, ignotique longa
Nocte, carent quia vate sacro.

If I could go back to the age of thirty five, Mr. Wirt, I would endeavour to become your rival; not in elegance of composition, but in a simple narration of facts, supported by records, histories, and testimonies, of irrefragable authority. I would adopt, in all its modesty, your title, "Sketches of the life and writings of James Otis, of Boston." And, in imitation of your example, I would introduce portraits of a long catalogue of illustrious men, who were agents in the revolution, in favor of it or against it.

Jeremiah Gridley, the father of the bar in Boston, and the preceptor of Pratt, Otis, Thatcher, Cushing, and many others; Benjamin Pratt, chief justice of New-York; colonel John Tynge, James Otis, of Boston, the hero of the biography; Oxenbridge Thatcher, Jonathan Sewall, attorney general and judge of admiralty; Samuel Quincy, solicitor general; Daniel Leonard, now chief justice of Bermuda; Josiah Quincy, the Boston Cicero; Richard Dana and Francis Dana, his son, first minister to Russia, and afterwards chief justice; Jonathan Mayhew, D. D. Samuel Cooper, D. D. Charles Chauncey, D. D. James Warren and his wife; Joseph Warren, of Bunker's Hill; John Winthrop, professor at Harvard college, and a member of council; Samuel Dexter, the father; John Worthington, of Springfield; Joseph Hawley, of Northampton, and James Lovel, of Boston; governors Shirley, Pownal, Bernard, Hutchinson, Hancock, Bowdoin, Adams, Sullivan, and Gerry; lieutenant

governor Oliver, chief justice Oliver, judge Edmund Trowbridge, judge William Cushing, and Timothy Ruggles, ought not to be omitted. The military characters, Ward, Lincoln, Warren, Knox, Brooks, Heath, &c. must come in of course. Nor should Benjamin Kent, Samuel Swift, or John Reed, be forgotten.

I envy none of the well merited glories of Virginia, or any of her sages or heroes. But, sir, I am jealous, very jealous, of the honour of Massachusetts.

The resistance to the British system, for subjugating the colonies, began in 1760, and in the month of February, 1761, James Otis electrified the town of Boston, the province of Massachusetts bay, and the whole continent, more than Patrick Henry ever did in the whole course of his life. If we must have panegyrics and hyperboles, I must say, that if Mr. Henry was Demosthenes, and Mr. Richard Henry Lee, Cicero, James Otis was Isaiah and Ezekiel UNITED.

I hope, sir, that some young gentleman, of the ancient and honourable family of "The Searchers," will hereafter do impartial justice, both to Virginia and Massachusetts.

After all this freedom, I assure you, sir, it is no flattery, when I congratulate the nation on the acquisition of an attorney general of such talents and industry as your "Sketches" demonstrate.

With great esteem, I am, Sir,

Your friend and humble servant,

JOHN ADAMS.

Mr. WIRT, *Attorney General of the United States.*

TO THE SAME.

Quincy, *January* 23, 1819.

SIR,

I THANK you for your kind letter of the 12th of this month. As I esteem the character of Mr. Henry, an honour to our country, and your volume a masterly delineation of it, I gave orders to purchase it as soon as I heard of it, but was told it was not to be had in Boston. I have seen it only by great favour on a short loan. A copy from the author would be worth many by purchase. It may be sent to me by the mail.

From a personal acquaintance, perhaps I might say a friendship, with Mr. Henry, of more than forty years, and from all that I have heard or read of him, I have always considered him as a gentleman of deep reflection, keen sagacity, clear foresight, daring enterprise, inflexible intrepidity, and untainted integrity; with an ardent zeal for the liberties, the honour, and felicity of his country, and his species. All this, you justly as I believe, represent him to have been. There are, however, remarks to be made upon your work, which, if I had the eyes and hands, I would, in the spirit of friendship, attempt. But my hands, and eyes, and life, are but for a moment.

When congress had finished their business, as they thought, in the autumn of 1774, I had, with Mr. Henry, before we took leave of each other, some familiar conversation, in which I expressed a full conviction, that our resolves, declarations of rights, enumeration of wrongs, petitions, remonstrances, and addresses, associations, and non-importation agreements, however they might be expected in

America, and however necessary to cement the union of the colonies, would be but waste water in England. Mr. Henry said, they might make some impression among the people of England, but agreed with me that they would be totally lost upon the government. I had but just received a short and hasty letter, written to me by major Joseph Hawley, of Northampton, containing "a few broken hints," as he called them, of what he thought was proper to be done, and concluding with these words, "*after all we must fight.*" This letter I read to Mr. Henry, who listened with great attention; and as soon as I had pronounced the words, "after all we must fight," he raised his head, and with an energy and vehemence that I can never forget, broke out with "BY G—D, I AM OF THAT MAN'S MIND." I put the letter into his hand, and when he had read it, he returned it to me, with an equally solemn asseveration, that he agreed entirely in opinion with the writer. I considered this as a sacred oath, upon a very great occasion, and could have sworn it as religiously as he did, and by no means inconsistent with what you say, in some part of your book, that he never took the sacred name in vain.

As I knew the sentiments with which Mr. Henry left congress, in the autumn of 1774, and knew the chapter and verse from which he had borrowed the sublime expression, "we must fight," I was not at all surprised at your history, in the 122d page, in the note, and in some of the preceding and following pages. Mr. Henry only pursued, in March, 1775, the views and vows of November, 1774.

The other delegates from Virginia returned to their state in full confidence, that all our grievances would be redressed. The last words that Mr. Richard Henry

Lee said to me, when we parted, were, "*we shall infallibly carry all our points. You will be completely relieved; all the offensive acts will be repealed; the army and fleet will be recalled, and Britain will give up her foolish project.*"

Washington only was in doubt, He never spoke in public. In private he joined with those who advocated a non-exportation, as well as a non-importation agreement. With both he thought we should prevail; without either, he thought it doubtful, Henry was clear in one opinion, Richard Henry Lee in an opposite opinion, and Washington doubted between the two. Henry, however, appeared in the end to be exactly in the right.

Oratory, Mr. Wirt, as it consists in expressions of the countenance, graces of attitude and motion, and intonation of voice, although it is altogether superficial and ornamental, will always command admiration, yet it deserves little veneration. Flashes of wit, coruscations of imagination and gay pictures, what are they? Strict truth, rapid reason and pure integrity are the only essential ingredients in sound oratory. I flatter myself, that Demosthenes, by his "action! action! action!" meant to express the same opinion. To speak of American oratory, ancient or modern, would lead me too far, and beyond my depth.

I must conclude with fresh assurances of the high esteem of your humble servant,

JOHN ADAMS.

WILLIAM WIRT, Esq.
Attorney General of the United States.

TO THE HON. WM. TUDOR.

Quincy, *February* 25, 1818.

DEAR SIR,

AS Mr. Wirt has filled my head with James Otis, and as I am well informed, that the honourable Mr. ******** *****, alias ********, alias *** *****, &c. roundly asserts, that Mr. "Otis had no patriotism," and that "he acted only from revenge of his father's disappointment of a seat at the Superior Bench," I will tell you a story which may make you laugh, if it should not happen to melt you into tears.

Otis belonged to a club, who met on evenings, of which club William Molineux, whose character you know very well, was a member. Molineux had a petition before the legislature, which did not succeed to his wishes, and he became for several evenings sour, and wearied the company with his complaints of services, losses, sacrifices, &c. and said, "that a man who has behaved as I have, should be treated as I am, is intolerable," &c. Otis had said nothing, but the company were disgusted and out of patience, when Otis rose from his seat, and said, "come, come, Will, quit this subject, and let us enjoy ourselves. I also have a list of grievances, will you hear it?" The club expected some fun, and all cried out, "Aye! Aye! let us hear your list."

"Well, then, Will; in the first place I resigned the office of advocate general, which I held from the

crown which produced me; how much, do you think?" "A great deal, no doubt," said Molineux. "Shall we say two hundred sterling a year?" "Aye, more I believe," said Molineux. "Well, let it be 200; that for ten years is two thousand. In the next place, I have been obliged to relinquish the greatest part of my business at the bar. Will you set that at 200 more?" "Oh I believe it much more than that." "Well let it be 200. This for ten years makes two thousand. You allow, then, I have lost 4000*l.* sterling." "Aye, and more too," said Molineux.

"In the next place, I have lost an hundred friends; among whom were the men of the first rank, fortune and power in the province. At what price will you estimate them?" "Damn them," said Molineux, "at nothing. You are better without them than with them." A loud laugh. "Be it so," said Otis.

"In the next place, I have made a thousand enemies; amongst whom are the government of the province and the nation. What do you think of this item?" "That is as it may happen," said Molineux.

"In the next place, you know I love pleasure. But I have renounced all amusement for ten years. What is that worth to a man of pleasure?" "No great matter," said Molineux, "you have made politics your amusement." A hearty laugh.

"In the next place, I have ruined as fine health and as good a constitution of body, as nature ever gave to man." "This is melancholy indeed," said Molineux. "There is nothing to be said upon that point."

"Once more," said Otis, holding his head down before Molineux, "look upon this head!" (where was a scar

in which a man might bury his finger.) "What do you think of this? And what is worse, my friends think I have a monstrous crack in my scull." This made all the company very grave, and look very solemn. But Otis setting up a laugh, and with a gay countenance, said to Molineux, "Now, Willy, my advice to you is, to say no more about your grievances; for you and I had better put up our accounts of profit and loss in our pockets, and say no more about them, lest the world should laugh at us."

This whimsical dialogue put all the company, and Molineux himself into good humour, and they passed the rest of the evening in joyous conviviality.

It is provoking, and it is astonishing, and it is mortifying, and it is humiliating to see, how calumny sticks, and is transmitted from age to age. Mr. ****** is one of the last men I should have expected to have swallowed that execrable lie, that Otis had no patriotism. The father was refused an office worth 1200*l.* old tenor, or about 120*l.* sterling, and the refusal was no loss, for his practice at the bar was worth much more; for Colonel Otis was a lawyer in profitable practice, and his seat in the legislature gave him more power and more honour; for this refusal the son resigned an office which he held from the crown, worth twice the sum. The son must have been a most dutiful and affectionate child to the father. Or rather, most enthusiastically and frenzically affectionate.

I have been young, and now am old, and I solemnly say, I have never known a man whose love of his country was more ardent or sincere; never one, who suffered so much; never one, whose services for any ten years of his life, were so important and essential

to the cause of his country, as those of Mr. Otis from 1760 to 1770.

The truth is, he was an honest man, and a thorough taught lawyer. He was called upon in his official capacity as advocate general by the custom house officers, to argue their cause in favour of writs of assistants. These writs he knew to be illegal, unconstitutional, destructive of the liberties of his country; a base instrument of arbitrary power, and intended as an entering wedge to introduce unlimited taxation and legislation by authority of parliament. He therefore scorned to prostitute his honour and his conscience, by becoming a tool. And he scorned to hold an office which could compel him or tempt him to be one. He therefore resigned it. He foresaw as every other enlightened man foresaw, a tremendous storm coming upon his country, and determined to run all risques, and share the fate of the ship, after exerting all his energies to save her, if possible. At the solicitation of Boston and Salem, he accordingly embarked and accepted the command.

To attribute to such a character sinister or trivial motives is ridiculous. You and Mr. Wirt have "brought the old man out," and I fear he will never be driven in again, till he falls into the grave.

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, March 29, 1818.

DEAR SIR,

IS your daughter, Mrs. ******, who I am credibly informed, is one of the most accomplished ladies, a painter? Are you acquainted with Miss ***** *****, who I am also credibly informed is one of the most accomplished ladies, and a painter? Do you know Mr. Sargent? Do you correspond with your old companion in arms, Col. John Trumbull? Do you think Fisher will be an historical painter?

Whenever you shall find a painter, male or female, I pray you to suggest a scene and subject.

The scene is the council chamber of the old town house in Boston. The date is the month of February, 1761, nine years before you came to me in Cole lane. As this is five years before you entered college, you must have been in the second form of master Lovell's school.

That council chamber was as respectable an apartment, and more so too, in proportion, than the house of lords or house of commons in Great Britain, or that in Philadelphia in which the declaration of independence was signed in 1776.

In this chamber, near the fire, were seated five judges, with lieutenant governor Hutchinson at their head, as chief justice; all in their new fresh robes of scarlet English cloth, in their broad bands, and

immense judicial wigs. In this chamber was seated at a long table all the barristers of Boston, and its neighbouring county of Middlesex, in their gowns, bands and tye-wigs. They were not seated on ivory chairs; but their dress was more solemn and more pompous than that of the Roman Senate, when the Gauls broke in upon them. In a corner of the room must be placed wit, sense, imagination, genius, pathos, reason, prudence, eloquence, learning, science, and immense reading, hung by the shoulders on two crutches, covered with a cloth great coat, in the person of Mr. Pratt, who had been solicited on both sides but would engage on neither, being about to leave Boston forever, as chief justice of New York.

Two portraits, at more than full length, of king Charles the second, and king James the second, in splendid golden frames, were hung up in the most conspicuous side of the apartment. If my young eyes or old memory have not deceived me, these were the finest pictures I have seen. The colours of their long flowing robes and their royal ermines were the most glowing, the figures the most noble and graceful, the features the most distinct and characteristic: far superior to those of the king and queen of France in the senate chamber of congress. I believe they were Vandyke's. Sure I am there was no painter in England capable of them at that time. They had been sent over without frames, in governor Pownal's time. But as he was no admirer of Charleses or Jameses, they were stowed away in a garret among rubbish, till governor Bernard came, had them cleaned, superbly framed, and placed in council for the admiration and imitation of all men, no doubt with the concurrence of Hutchinson and all the junto; for there has always been a junto. One circumstance more. Samuel Quincy and John Adams had been admitted

barristers at that term. John was the youngest. He should be painted, looking like a short thick fat archbishop of Canterbury, seated at the table, with a pen in his hand, lost in admiration, now and then minuting those despicable notes which you know that ******** ******** stole from my desk, and printed in the Massachusetts Spy, with two or three bombastic expressions interpolated by himself; and which your pupil, judge Minot, has printed in his history.

You have now the stage and the scenery. Next follows a narration of the subject. I rather think that we lawyers ought to call it a brief of the cause.

When the British ministry received from general Amherst his despatches, announcing his conquest of Montreal, and the consequent annihilation of the French government and power in America, in 1759, they immediately conceived the design and took the resolution of conquering the English colonies, and subjecting them to the unlimited authority of parliament. With this view and intention, they sent orders and instructions to the collector of the customs in Boston, Mr. Charles Paxton, to apply to the civil authority for writs of assistance, to enable the custom house officers, tide waiters, land waiters, and all, to command all sheriffs and constables to attend and aid them in breaking open houses, stores, shops, cellars, ships, bales, trunks, chests, casks, packages of all sorts, to search for goods, wares and merchandizes, which had been imported against the prohibitions, or without paying the taxes imposed by certain acts of parliament, called "THE ACTS OF TRADE," *i. e.* by certain parliamentary statutes, which had been procured to be passed from time to time, for a century before, by a combination of selfish

intrigues between West India planters and North American royal governors. These acts never had been executed, and there never had been a time when they would have been, or could have been, obeyed.

Mr. Paxton, no doubt consulting with governor Bernard, lieutenant governor Hutchinson, and all the principal crown officers, and all the rest of the Junto, thought it not prudent to commence his operations in Boston. For obvious reasons, he instructed his deputy collector in Salem, Mr. Cockle, to apply by petition to the superior court, in November, 1760, then sitting in that town, for writs of assistance. Stephen Sewall was then chief justice of that court, an able man, an uncorrupted American, and a sound whig, a sincere friend of liberty, civil and religious. He expressed great doubts of the legality of such a writ, and of the authority of the court to grant it. Not one of his brother judges uttered a word in favor of it; but as it was an application on the part of the crown, it must be heard and determined. After consultation, the court ordered the question to be argued at the next February term, in Boston, *i. e.* in 1761.

In the mean time chief justice Sewall died, and lieutenant governor Hutchinson was appointed chief justice of that court in his stead. Every observing and thinking man knew that this appointment was made for the direct purpose of deciding this question, in favour of the crown, and all others in which it should be interested.

An alarm was spread far and wide. Merchants of Salem and Boston applied to Mr. Pratt, who refused, and to Mr. Otis and Mr. Thatcher, who accepted, to defend them against this terrible menacing monster, the writ of assistance. Great fees were offered, but

Otis, and I believe Thatcher, would accept of none. "In such a cause," said Otis, "I despise all fees."

I have given you a sketch of the stage and the scenery, and a brief of the cause; or, if you like the phrase better, of the tragedy, comedy or farce.

Now for the actors and performers. Mr. Gridley argued with his characteristic learning, ingenuity and dignity, and said every thing that could be said in favour of Cockle's petition, all depending, however, on the "If the parliament of Great Britain is the sovereign legislator of all the British empire."

Mr. Thatcher followed him on the other side, and argued with the softness of manners, the ingenuity, the cool reasoning which were peculiar to his amiable character.

But Otis was a flame of Fire! With a promptitude of classical allusions, a depth of research, a rapid summary of historical events and dates, a profusion of legal authorities, a prophetic glare of his eyes into futurity, and a rapid torrent of impetuous eloquence he hurried away all before him. American independence was then and there born. The seeds of patriots and heroes to defend the *Non Sine Diis Animosus Infans*; to defend the vigorous youth were then and there sown. Every man of an immense crowded audience appeared to me to go away as I did, ready to take arms against writs of assistance. Then and there was the first scene of the first act of opposition to the arbitrary claims of Great Britain. Then and there the child Independence was born. In fifteen years, i. e. in 1776, he grew up to manhood and declared himself free.

The court adjourned for consideration, and after some days at the close of the term, Hutchinson chief justice arose and said, "The court has considered the subject of writs of assistance, and can see no foundation for such a writ; but as the practise in England is not known, it has been thought best, to continue the question to next term, that in the mean time opportunity may be given to write to England for information concerning the subject." In six months the next term arrived; but no judgment was pronounced; nothing was said about writs of assistance; no letters from England, and nothing more was said in court concerning them.—But it was generally reported and understood that the court clandestinely granted them; and the custom house officers had them in their pockets, though I never knew that they dared to produce and execute them in any one instance.

Mr. Otis's popularity was without bounds. In May, 1761, he was elected into the house of representatives, by an almost unanimous vote. On that week I happened to be at Worcester attending a court of common pleas of which, brigadier Ruggles was chief justice. When the news arrived from Boston, you can have no idea of the consternation among the government people. Chief justice Ruggles at dinner at colonel Chandler's on that day, said, "Out of this election will arise a damn'd faction, which will shake this province to its foundation."

For ten years afterwards Mr. Otis, at the head of his country's cause, conducted the town of Boston and the people of the province with a prudence and fortitude, at every sacrifice of personal interest and amidst unceasing persecution, which would have done honour to the most virtuous patriot or martyr

of antiquity.

I fear I shall make you repent of bringing out the old gentleman.

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *April* 5, 1818.

DEAR SIR,

IN Mr. Wirt's elegant and eloquent panegyrick on Mr. Henry I beg your attention from page 56 to page 67, the end of the second section, where you will read a curious specimen of the agonies of patriotism in the early stages of the revolution. "When Mr. Henry could carry his resolutions but by one vote, and that against the influence of Randolph, Bland, Pendleton, Wythe and all the old members whose influence in the house had till then been unbroken; and when Peyton Randolph afterwards president of congress swore a round oath, he would have given 500 guineas for a single vote; for one vote would have divided the house, and Robinson was in the chair, who he knew would have negatived the resolution."

And you will also see the confused manner in which they were first recorded, and how they have since been garbled in history. My remarks at present will be confined to the anecdote in page 65.

Cæsar had his Brutus, Charles the first, his Cromwell,

and George the third. Treason cried the speaker—treason, treason, echoed from every part of the house. Henry finished his sentence by the words, "may profit by their example." If this be treason make the most of it.

In judge Minot's history of Massachusetts Bay, volume second, in page 102 and 103, you will find another agony of patriotism in 1762, three years before Mr. Henry's. Mr. Otis suffered one of equal severity in the house of representatives of Massachusetts. Judge Minot's account of it is this.

The remonstrance offered to the governor was attended with aggravating circumstances. It was passed, after a very warm speech, by a member in the house, and at first contained the following offensive observation.

"For it will be of little consequence to the people whether they were subject to George or Louis; the king of Great Britain, or the French king; if both were arbitrary, as both would be, if both could levy taxes without parliament." Though judge Minot does not say it, the warm speech was from the tongue, and the offensive observation, from the pen of James Otis; when these words of the remonstrance were first read in the house, Timothy Pain, Esq. a member from Worcester, in his zeal for royalty, though a very worthy and very amiable man, cried out, treason! treason! the house however were not intimidated, but voted the remonstrance with all the treason contained in it, by a large majority; and it was presented to the governor by a committee of which Mr. Otis was a member.

Judge Minot proceeds—"The governor was so displeased with the passage, that he sent a letter to

the speaker, returning the message to the house; in which he said, that the king's name, dignity and cause, were so improperly treated that he was obliged to desire the speaker to recommend earnestly to the house, that it might not be entered upon the minutes in the terms in which it then stood. For if it should, he was then satisfied they would again and again, wish that some part of it were expunged, especially if it should appear, as he doubted not it would when he entered upon his vindication, that there was not the least ground for the insinuation, under colour of which, that sacred and well beloved name was so disrespectfully brought into question."

Upon the reading of this letter, the exceptionable clause was struck out of the message.

I have now before me a pamphlet printed in 1763, by Edes & Gill, in Queen-street, Boston, entitled a vindication of the conduct of the house of representatives of the province of the Massachusetts Bay, more particularly in the last session of the general assembly, by James Otis, Esq. a member of said house, with this motto—

Let such, such only, tread this sacred floor,
Who dare to love their Country and be poor;
Or good, tho' rich, humane and wise, tho' great,
Jove give but these, we've nought to fear from fate.

I wish I could transcribe the whole of this pamphlet, because it is a document of importance in the early history of the revolution, which ought never to be forgotten. It shows in a strong light the heaves and throes of the burning mountain, three years at least, before the explosion of the volcano in Massachusetts

or Virginia.

Had judge Minot ever seen this pamphlet, could he have given so superficial an account of this year, 1762? There was more than one "*warm speech*" made in that session of the legislature; Mr. Otis himself, made many. A dark cloud hung over the whole continent; but it was peculiarly black and threatening over Massachusetts and the town of Boston, against which devoted city the first thunderbolts of parliamentary omnipotence were intended and expected to be darted. Mr. Otis, from his first appearance in the house in 1761, had shewn such a vast superiority of talents, information and energy to every other member of the house, that in 1763 he took the lead as it were of course. He opened the session with a speech, a sketch of which he has given us himself. It depends upon no man's memory. It is warm; it is true. But it is warm only with loyalty to his king, love to his country, and exultations in her exertions in the national cause.

This pamphlet ought to be reprinted and deposited in the cabinet of the curious. The preface, is a frank, candid and manly page, explaining the motive of the publication, viz: the clamours against the house for their proceedings, in which he truly says.—"The world ever has been, and ever will be pretty equally divided, between those two great parties, vulgarly called the winners and the losers; or to speak more precisely, between those who are discontented that they have no power, and those who think they never can have enough." Now it is absolutely impossible to please both sides either by temporizing, trimming or retreating; the two former justly incur the censure of a wicked heart; the latter that of cowardice, and fairly and manfully fighting the battle, and it is in

the opinion of many worse than either. On the 8th of September, A. D. 1762, the war still continuing in North America and the West Indies, governor Bernard made his speech to both houses, and presented a *requisition* of sir Jeffery Amherst, that the Massachusetts troops should be continued in pay during the winter.

Mr. Otis made a speech, the outlines of which he has recorded in the pamphlet, urging a compliance with the governor's recommendation and general Amherst's requisition; and concluding with a motion for a committee to consider of both.

A committee was appointed, of whom Mr. Otis was one, and reported not only a continuance of the troops already in service, but an addition of nine hundred men, with an augmented bounty to encourage their enlistment.

If the orators on the 4th of July, really wish to investigate the principles and feelings which produced the revolution, they ought to study this pamphlet and Dr. Mayhew's sermon on passive obedience and non-resistance, and all the documents of those days. The celebrations of independence have departed from the object of their institution, as much as the society for the propagation of the gospel in foreign parts have from their charter. The institution had better be wholly abolished, than continued an engine of the politics and feelings of the day, instead of a memorial of the principles and feelings of the revolution half a century ago, I might have said for two centuries before.

This pamphlet of Mr. Otis exhibits the interesting spectacle of a great man glowing with loyalty to his sovereign, proud of his connection with the British

empire, rejoicing in its prosperity, its triumphs and its glory, exulting in the unexampled efforts of his own native province to promote them all: but at the same time grieving and complaining at the ungenerous treatment that province had received from its beginning from the mother country, and shuddering under the prospect of still greater ingratitude and cruelty from the same source. Hear a few of his words, and read all the rest.

"*Mr. Speaker*—This province has upon all occasions been distinguished by its loyalty and readiness to contribute its most strenuous efforts for his majesty's service. I hope this spirit will ever remain as an indelible characteristic of this people," &c. &c. "Our own immediate interest therefore, as well as the general cause of our king and country requires, that we should contribute the last penny and the last drop of blood, rather than by any backwardness of ours, his majesty's measures should be embarrassed: and thereby any of the enterprises that may be planned for the regular troops, miscarry. Some of these considerations I presume, induced the assembly upon his majesty's requisition, signified last spring by lord Egremont, so cheerfully and unanimously to raise thirty three hundred men for the present campaign; and upon another requisition signified by sir Jeffery Amherst to give a handsome bounty for enlisting about nine hundred more into the regular service. The colonies, we know, have often been blamed without cause; and we have had some share of it. Witness the miscarriage of the pretended expedition against Canada, in queen Ann's time, just before the infamous treaty of Utrecht. It is well known by some now living in this metropolis, that the officers both of the army and navy, expressed their utmost surprise at it upon their arrival. To some of them no

doubt, it was a disappointment; for in order to shift the blame of this shameful affair from themselves, they endeavoured to lay it upon the New England colonies.

"I am therefore clearly for raising the men," &c. &c. "This province has, since the year 1754, levied for his majesty's service as soldiers and seamen, near thirty thousand men, besides what have been otherwise employed. One year in particular it was said that every fifth man was engaged in one shape or another.—We have raised sums for the support of this war, that the last generation could hardly have formed any idea of. We are now deeply in debt," &c. &c.

On the 14th of September, the house received a message from the governor, containing a somewhat awkward confession of certain expenditures of public money with advice of council, which had not been appropriated by the house. He had fitted out the Massachusetts sloop of war, increased her establishment of men, &c. Five years before, perhaps this irregularity might have been connived at or pardoned; but, since the debate concerning writs of assistance, and since it was known that the acts of trade were to be enforced, and a revenue collected by authority of parliament, Mr. Otis's maxim, that "taxation without representation was tyranny," and "that expenditures of public money, without appropriations by the representatives of the people, were unconstitutional, arbitrary and therefore tyrannical," had become popular proverbs. They were common place observations in the streets. It was impossible that Otis should not take fire upon this message of the governor. He accordingly did take fire, and made that flaming speech which judge

Minot calls "*a warm speech*" without informing us who made it or what it contained. I wish Mr. Otis had given us this warm speech as he has the comparatively cool one, at the opening of the session. But this is lost forever. It concluded however, with a motion for a committee to consider the governor's message and report. The committee was appointed, and Otis was the first after the speaker.

The committee reported the following answer and remonstrance, every syllable of which is Otis:

"*May it please your Excellency*:

"The house have duly attended to your excellency's message of the eleventh inst. relating to the Massachusetts sloop, and are humbly of opinion that there is not the least necessity for keeping up her present complement of men, and therefore desire that your excellency would be pleased to reduce them to six, the old establishment made for said sloop by the general court. Justice to ourselves, and to our constituents obliges us to remonstrate against the method of making or increasing establishments by the governor and council.

"It is in effect, taking from the house their most darling privilege, the right of originating all taxes.

"It is, in short, annihilating one branch of legislation. And when once the representatives of the people give up this privilege, the government will very soon become arbitrary.

"No necessity therefore, can be sufficient to justify a house of representatives in giving up such a privilege; for it would be of little consequence to the

people, whether they were subject to George or Louis, the king of Great Britain or the French king; if both were arbitrary, as both would be, if both could levy taxes without parliament.

"Had this been the first instance of the kind, we might not have troubled your excellency about it; but lest the matter should go into precedent, we earnestly beseech your excellency, as you regard the peace and welfare of the province, that no measures of this nature be taken for the future, let the advice of council be what it may."

This remonstrance being read, was accepted by a large majority, and sent up and presented to his excellency by a committee of whom Mr. Otis was one.

But here, Mr. Tudor, allow me, a digression, an episode. Lord Ellenborough in the late trial of Hone, says "the Athanasian Creed is the most beautiful composition that ever flowed from the pen of man."

I agree with his lordship, that it is the most consummate mass of absurdity, inconsistency and contradiction that ever was put together. But I appeal to your taste and your conscience, whether the foregoing remonstrance of James Otis is not as terse a morsel of good sense, as Athanasius's Creed is of nonsense and blasphemy?

The same day the above remonstrance was delivered, the town was alarmed with a report, that the house had sent a message to his excellency, reflecting on his majesty's person and government, and highly derogatory to his crown and dignity, and therein desired, that his excellency would in no case take the advice of his majesty's council.

The governor's letter to the speaker, is as judge Minot represents it. Upon reading it, the same person who had before cried out, treason! treason! when he first heard the offensive words, now cried out, "rase them! rase them!" They were accordingly expunged.

In the course of the debate, a new and surprising doctrine was advanced. We have seen the times, when the majority of a council by their words and actions have seemed to think themselves obliged to comply with every thing proposed by the chair, and to have no rule of conduct but a governor's will and pleasure. But now for the first time it was asserted, that the governor in all cases was obliged to act according to the advice of council, and consequently would be deemed to have no judgment of his own.

In page 17, Mr. Otis enters on his apology, excuse or justification of the offensive words: which, as it is as facetious as it is edifying, I will transcribe at length in his own words, viz:

"In order to excuse, if not altogether justify the offensive passage, and clear it from ambiguity, I beg leave to premise two or three data. 1. GOD made all men naturally equal. 2. The ideas of earthly superiority, pre-eminence and grandeur, are educational, at least acquired, not innate. 3. Kings were, and plantation governors should be made for the good of the people, and not the people for them. 4. No government has a right to make hobby-horses, asses and slaves of the subjects; nature having made sufficient of the former, for all the lawful purposes of man, from the harmless peasant in the field, to the most refined politician in the cabinet; but none of the last, which infallibly proves they are unnecessary. 5. Though most governments are *de facto* arbitrary, and

consequently the curse and scandal of human nature, yet none are *de jure* arbitrary. 6. The British constitution of government, as now established in his majesty's person and family, is the wisest and best in the world. 7. The king of Great Britain is the best, as well as the most glorious monarch upon the globe, and his subjects the happiest in the universe. 8. It is most humbly presumed, the king would have all his plantation governors follow his royal example, in a wise and strict adherence to the principles of the British constitution, by which in conjunction with his other royal virtues, he is enabled to reign in the hearts of a brave and generous, a free and loyal people. 9. This is the summit, the *ne plus ultra* of human glory and felicity. 10. The French king is a despotic arbitrary prince, and consequently his subjects are very miserable.

"Let us now take a more careful review of this passage, which by some out of doors has been represented as seditious, rebellious, and traitorous. I hope none, however, will be so wanting to the interest of their country, as to represent the matter in this light on the east side of the Atlantic, though recent instances of such a conduct might be quoted, wherein the province has, after its most strenuous efforts, during this and other wars been painted in all the odious colours, that avarice, malice, and the worst passions could suggest.

"The house assert, that it would be of little consequence to the people, whether they were subject to George or Louis; the king of Great Britain or the French king, if both were arbitrary as both would be, if both could levy taxes without parliament. Or in the same words transposed without the least alteration of the sense. It would be of little

consequence to the people, whether they were subject to George the king of Great Britain, or Louis the French king, if both were arbitrary, as both would be, if both could levy taxes without parliament.

"The first question that would occur to a philosopher, if any question could be made about it, would be, whether it were true? But truth being of little importance, with most modern politicians, we shall touch lightly on that topic, and proceed to inquiries of a more interesting nature.

"That arbitrary government implies the worst of temporary evils, or at least the continual danger of them, is certain. That a man would be pretty equally subject to these evils, under every arbitrary government, is clear. That I should die very soon after my head should be cut off, whether by a sabre or a broad sword, whether chopped off to gratify a tyrant, by the Christian name of Tom, Dick, or Harry, is evident. That the name of the tyrant would be of no more avail to save my life, than the name of the executioner, needs no proof. It is therefore manifestly of no importance what a prince's christian name is, if he be arbitrary, any more indeed if he were not arbitrary. So the whole amount of this dangerous proposition, may at least, in one view be reduced to this, viz: *It is of little importance what a king's christian name is.* It is, indeed, of importance, that a king, a governor, and all other good christians, should have a christian name, but whether Edward, Francis, or William, is of none, that I can discern. It being a rule, to put the most mild and favourable construction upon words, that they can possibly bear, it will follow, that this proposition is a very harmless one, that cannot by any means tend to prejudice his

majesty's person, crown, dignity, or cause, all which I deem equally sacred with his excellency.

"If this proposition will bear an hundred different constructions, they must all be admitted before any that imports any bad meaning, much more a treasonable one.

"It is conceived the house intended nothing disrespectful to his majesty, his government, or governor, in those words. It would be very injurious to insinuate this of a house, that upon all occasions has distinguished itself by a truly loyal spirit, and which spirit possesses at least nine hundred and ninety nine in a thousand, of their constituents throughout the province. One good natured construction at least seems to be implied in the assertion, and that pretty strongly, viz: that in the present situation of Great Britain and France, it is of vast importance to be a Britain rather than a Frenchman, as the French king is an arbitrary, despotic prince, but the king of Great Britain is not so *de jure*, *de facto*, nor by inclination; a greater difference on this side the grave cannot be found, than that which subsists between British subjects and the slaves of tyranny.

"Perhaps it may be objected, that there is some difference even between arbitrary princes; in this respect at least, that some are more vigorous than others. It is granted; but, then, let it be remembered, that the life of man is a vapour, that shall soon vanish away, and we know not who may come after him, a wise man or a fool; though the chances before and since Solomon have ever been in favour of the latter. Therefore it is said of little consequence. Had it been *no* instead of *little*, the clause upon the most

rigid stricture might have been found barely exceptionable.

"Some fine gentlemen have charged the expression as indelicate. This is a capital impeachment in politics, and therefore demands our most serious attention. The idea of delicacy, in the creed of some politicians, implies, that an inferior should, at the peril of all that is near and dear to him, i. e. his interest, avoid, every the least trifle that can offend his superior. Does my superior want my estate? I must give it him, and that with a good grace; which is appearing, and, if possible, being really obliged to him, that he will condescend to take it. The reason is evident; it might give him some little pain or uneasiness to see me whimpering, much more openly complaining, at the loss of a little glittering dirt. I must according to this system, not only endeavour to acquire myself, but impress upon all around me, a reverence and passive obedience, to the sentiments of my superior, little short of adoration. Is the superior in contemplation a king, I must consider him as God's Vicegerent, cloathed with unlimited power, his will the supreme law, and not accountable for his actions, let them be what they may, to any tribunal upon earth. Is the superior a plantation governor? He must be viewed, not only as the most excellent representation of majesty, but as a viceroy in his department, and *quoad* provincial administration, to all intents and purposes, vested with all the prerogatives that were ever exercised by the most absolute prince in Great Britain.

"The votaries of this sect, are all monopolizers of offices, peculators, informers, and generally the seekers of all kinds. It is better, say they, to "give up any thing, and every thing quietly, than contend

with a superior, who, by his prerogative, can do, and as the vulgar express it, right or wrong, will have whatever he pleases. For you must know, that according to some of the most refined and fashionable systems of modern politics, the ideas of right and wrong, and all the moral virtues, are to be considered only as the vagaries of a weak and distempered imagination in the possessor, and of no use in the world, but for the skilful politician to convert to his own purposes of power and profit. With these

"The love of country is an empty name;
For gold they hunger, but ne'er thirst for fame."

"It is well known, that the least "patriotic spark" unawares "catched" and discovered, disqualifies a candidate from all further preferment in this famous and flourishing order of knights errant. It must, however, be confessed, that they are so catholic as to admit all sorts, from the knights of the post, to a garter and star, provided they are thoroughly divested of the fear of God, and the love of mankind; and have concentrated all their views in dear self, with them the only "sacred and well beloved name" or thing in the universe. See Cardinal Richlieu's Political Testament, and the greater Bible of the Sect, Mandeville's Fable of the Bees. Richlieu expressly, in solemn earnest, without any sarcasm or irony, advises the discarding all honest men from the presence of a prince, and from even the purlieus of a court. According to Mandeville, "the moral virtues are the political offspring which flattery begot upon pride." The most darling principle of the great apostle of the order, who has done more than any mortal towards diffusing corruption, not only through the three kingdoms, but through the

remotest dominions, is, that every man has his price, and that if you bid high enough you are sure of him.

"To those who have been taught to bow at the name of a king, with as much ardor and devotion as a papist at the sight of a crucifix, the assertion under examination may appear harsh; but *there is an immense difference between the sentiments of a British house of commons remonstrating, and those of a courtier cringing for a favour. A house of representatives here, at least, bears an equal proportion to a governor, with that of a house of commons, to the king.* There is indeed one difference in favour of a house of representatives; when a house of commons address the king, they speak to their sovereign, who is truly the most august personage upon earth. When a house of representatives remonstrate to a governor, they speak to a fellow subject, though a superior who is undoubtedly entitled to decency and respect; but I hardly think to quite so much reverence as his master.

"It may not be amiss to observe, that a form of speech may be in no sort improper, when used *arguendo*, or for illustration, speaking of the king; which same form may be very harsh, indecent and ridiculous, if spoken to the king.

"The expression under censure has had the approbation of divers gentlemen of sense, who are quite unprejudiced to any party. They have taken it to imply a compliment, rather than any indecent reflection upon his majesty's wise and gracious administration. It seems strange, therefore, that the house should be so suddenly charged by his excellency, with "impropriety, groundless insinuations," &c.

"What cause of so bitter repentance, 'again and again,' could possibly have taken place, if this clause had been printed in the journal, I cannot imagine. If the case be fairly represented, I guess the province can be in no danger from a house of representatives daring to speak plain English when they are complaining of a grievance. I sincerely believe that the house had no disposition to enter into any contest with the governor or council. Sure I am, that the promoters of this address had no such view. On the contrary, there is the highest reason to presume, that the house of representatives will at all times rejoice in the prosperity of the governor and council, and contribute their utmost assistance in supporting those two branches of the legislature in all their just rights and pre-eminence. But the house is, and ought to be, jealous and tenacious of its own privileges; *these are a sacred deposit, entrusted by the people, and the jealousy of them is a godly jealousy*."

Allow me now, Mr. Tudor, a few remarks: 1. Why has the sublime compliment of "treason! treason!" made to Mr. Henry, in 1765, been so celebrated, when that to Mr. Otis, in 1762, three years before, has been totally forgotten? Because the Virginia Patriot has had many trumpeters, and very loud ones; but the Massachusetts Patriot none, though false accusers and vile calumniators in abundance.

2. I know not whether judge Minot was born in 1762. He certainly never saw, heard, felt, or understood any thing of the principles or feelings of that year. If he had, he could not have given so frosty an account of it. The "warm speech" he mentions, was an abridgment or second edition of Otis's argument in 1761, against the execution of the acts of trade. It was a flaming declaration against

taxation without representation. It was a warning voice against the calamities that were coming upon his country. It was an ardent effort to alarm and arouse his countrymen against the menacing system of parliamentary taxation.

3. Bernard was no great thing, but he was not a fool. It is impossible to believe, that he thought the offensive passage treason or sedition, of such danger and importance as he represented it. But his design was to destroy Otis. "There is your enemy," said Bernard, (after a Scottish general) "if ye do not kill him, he will kill you."

4. How many volumes are concentrated in this little fugitive pamphlet, the production of a few hurried hours, amidst the continual solicitations of a crowd of clients; for his business at the bar at that time was very extensive and of the first importance; and amidst the host of politicians, suggesting their plans and schemes, claiming his advice and directions!

5. Look over the declarations of rights and wrongs issued by congress in 1774. Look into the declaration of independence, in 1776. Look into the writings of Dr. Price and Dr. Priestly. Look into all the French constitutions of government; and to cap the climax, look into Mr. Thomas Paine's common sense, crisis, and rights of man; what can you find that is not to be found in solid substance in this "vindication of the house of representatives?"

6. Is it not an affront to common sense, an insult to truth, virtue, and patriotism, to represent Patrick Henry, though he was my friend as much as Otis, as the father of the American revolution, and the founder of American independence? The gentleman who has done this, sincerely believed what he wrote

I doubt not; but he ought to be made sensible, that he is of yesterday, and knows nothing of the real origin of the American revolution.

7. If there is any bitterness of spirit discernible in Mr. Otis's vindication, this was not natural to him. He was generous, candid, manly, social, friendly, agreeable, amiable, witty, and gay, by nature, and by habit honest, almost to a proverb, though quick and passionate against meanness and deceit. But at this time he was agitated by anxiety for his country, and irritated by a torrent of slander and scurrillity, constantly pouring upon him from all quarters.

Mr. Otis has fortified his vindication, in a long and learned note, which, in mercy to my eyes and fingers, I must borrow another hand to transcribe, in another sheet.

[Here follow quotations from Locke on government, Part II. Ch. IV. Id. Ch. XI. Id. Ch. XIV. B. I. Ch. II. and B. II. Ch. II.]

"This other original Mr. Locke has demonstrated to be the consent of a free people. It is possible there are a few; and I desire to thank God there is no reason to think there are many among us, that cannot bear the names of liberty and property, much less, that the things signified by those terms, should be enjoyed by the vulgar. These may be inclined to brand some of the principles advanced in the vindication of the house, with the odious epithets seditious and levelling. Had any thing to justify them been quoted from colonel Algernon Sydney, or other British martyrs to the liberty of their country, an outcry of rebellion would not be surprising. The authority of Mr. Locke has therefore been preferred to all others, for these further reasons. 1st. He was

not only one of the most wise as well as most honest, but the most impartial man that ever lived. 2d. He professedly wrote his discourses on government, as he himself expresses it, "to establish the throne of the great restorer king William; to make good his title in the consent of the people, which being the only one of all lawful governments, he had more fully and clearly than any prince in Christendom, and to justify to the world the people of England, whose love of liberty, their just and natural rights, with their resolution to preserve them, saved the nation when it was on the brink of slavery and ruin." By this title, our illustrious sovereign, George 3d, (whom God long preserve) now holds. 3. Mr. Locke was as great an ornament, under a crowned head, as the church of England ever had to boast of. Had all her sons been of his wise, moderate, tolerant principles, we should probably never have heard of those civil dissentions, that have so often brought the nation to the borders of perdition. Upon the score of his being a churchman, however, his sentiments are less liable to those invidious reflections and insinuations, that high flyers, jacobites, and other stupid bigots, are apt too liberally to bestow, not only upon dissenters of all denominations, but upon the moderate; and therefore infinitely the most valuable part of the church of England itself."

Pardon the trouble of reading the letter, from your habitual partiality for your friend.

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *April* 15, 1818.

DEAR SIR,

I HAVE received your obliging favour of the 8th, but cannot consent to your resolution to ask no more questions. Your questions revive my sluggish memory. Since our national legislature have established a national painter—a wise measure, for which I thank them, my imagination runs upon the art, and has already painted, I know not how many, historical pictures. I have sent you one, give me leave to send another. The bloody rencontre between the citizens and the soldiers, on the 5th of March, 1770, produced a tremendous sensation throughout the town and country. The people assembled first at Faneuil Hall, and adjourned to the old South Church, to the number, as was conjectured, of ten or twelve thousand men, among whom were the most virtuous, substantial, independent, disinterested and intelligent citizens.—They formed themselves into a regular deliberative body, chose their moderator and secretary, entered into discussions, deliberations and debates, adopted resolutions, appointed committees. What has become of these records, Mr. Tudor? Where are they? Their resolutions in public were conformable to those of every man in private, who dared to express his thoughts or his feelings, "that the regular soldiers should be banished from the town, at all hazards." Jonathan Williams, a very pious, inoffensive and conscientious gentleman, was their moderator. A remonstrance to the governor, or the governor and council, was ordained, and a demand that the regular troops should be removed from the town. A committee was appointed to

present this remonstrance, of which *Samuel Adams* was the chairman.

Now for the picture. The theatre and the scenery are the same with those at the discussion of writs of assistance. The same glorious portraits of king Charles II. and king James II. to which might be added, and should be added, little miserable likenesses of Gov. Winthrop, Gov. Bradstreet, Gov. Endicott and Gov. Belcher, hung up in obscure corners of the room. Lieut. Gov. Hutchinson, commander in chief in the absence of the governor, must be placed at the head of the council table. Lieut. Col. Dalrymple, commander in chief of his majesty's military forces, taking rank of all his majesty's counsellors, must be seated by the side of the lieutenant governor and commander in chief of the province. Eight and twenty counsellors must be painted, all seated at the council board. Let me see, what costume? What was the fashion of that day, in the month of March? Large white wigs, English scarlet cloth cloaks, some of them with gold laced hats, not on their heads, indeed, in so august a presence, but on a table before them. Before these illustrious personages appeared SAMUEL ADAMS, a member of the house of representatives and their clerk, now at the head of the committee of the great assembly at the old South church. Thucidydes, Livy or Sallust would make a speech for him, or, perhaps, the Italian Bota, if he had known any thing of this transaction, one of the most important of the revolution; but I am wholly incapable of it; and, if I had vanity enough to think myself capable of it, should not dare to attempt it. He represented the state of the town and the country; the dangerous, ruinous and fatal effects of standing armies in populous cities in time of peace, and the determined

resolution of the public, that the regular troops, at all events, should be removed from the town. Lieutenant governor Hutchinson, then commander in chief, at the head of a trembling council, said, "he had no authority over the king's troops, that they had their separate commander and separate orders and instructions, and that he could not interfere with them." Mr. Adams instantly appealed to the charter of the province, by which the governor, and in his absence the lieutenant governor, was constituted "commander in chief of all the military and naval power within its jurisdiction." So obviously true and so irrefragable was the reply, that it is astonishing that Mr. Hutchinson should have so grossly betrayed the constitution, and so atrociously have violated the duties of his office by asserting the contrary. But either the fears or the ambition of this gentleman, upon this and many other occasions, especially in his controversy with the two houses, three years afterwards, on the supremacy of parliament, appear to have totally disarranged his understanding. He certainly asserted in public, in the most solemn manner, a multitude of the roundest falshoods, which he must have known to be such, and which he must have known could be easily and would certainly be detected, if he had not wholly lost his memory, even of his own public writing. You, Mr. Tudor, knew Mr. Adams from your childhood to his death. In his common appearance, he was a plain, simple, decent citizen, of middling stature, dress and manners. He had an exquisite ear for music, and a charming voice, when he pleased to exert it.—Yet his ordinary speeches in town meetings, in the house of representatives and in congress, exhibited nothing extraordinary; but upon great occasions, when his deeper feelings were excited, he erected himself, or

rather nature seemed to erect him, without the smallest symptom of affectation, into an upright dignity of figure and gesture, and gave a harmony to his voice, which made a strong impression on spectators and auditors, the more lasting for the purity, correctness and nervous elegance of his style.

This was a delicate and a dangerous crisis. The question in the last resort was, whether the town of Boston should become a scene of carnage and desolation or not? Humanity to the soldiers conspired with a regard for the safety of the town, in suggesting the wise measure of calling the town together to deliberate. For nothing short of the most solemn promises to the people, that the soldiers should, at all hazards, be driven from the town, had preserved its peace. Not only the immense assemblies of the people, from day to day, but military arrangements from night to night, were necessary to keep the people and the soldiers from getting together by the ears. The life of a red coat would not have been safe in any street or corner of the town. Nor would the lives of the inhabitants have been much more secure. The whole militia of the city was in requisition, and military watches and guards were every where placed. We were all upon a level; no man was exempted; our military officers were our only superiors. I had the honor to be summoned in my turn, and attended at the state house with my musket and bayonet, my broadsword and cartridge box, under the command of the famous Paddock. I know you will laugh at my military figure; but I believe there was not a more obedient soldier in the regiment, nor one more impartial between the people and the regulars. In this character I was upon duty all night in my turn. No man appeared more anxious or more deeply impressed with a sense of

danger on all sides, than our commander Paddock. He called me, common soldier as I was, frequently to his councils. I had a great deal of conversation with him, and no man appeared more apprehensive of a fatal calamity to the town, or more zealous by every prudent measure to prevent it. Such was the situation of affairs, when Samuel Adams was reasoning with lieutenant governor Hutchinson and lieutenant colonel Dalrymple. He had fairly driven them from all their outworks, breastworks and entrenchments, to their citadel. There they paused and considered and deliberated. The heads of Hutchinson and Dalrymple were laid together in whispers for a long time: when the whispering ceased, a long and solemn pause ensued, extremely painful to an impatient and expecting audience. Hutchinson, in time, broke silence; he had consulted with colonel Dalrymple, and the colonel had authorized him to say that he might order one regiment down to the castle, if that would satisfy the people. With a self-recollection, a self-possession, a self-command, a presence of mind that was admired by every man present, Samuel Adams arose with an air of dignity and majesty, of which he was sometimes capable, stretched forth his arm, though even then quivering with palsy, and with an harmonious voice and decisive tone, said, "if the lieutenant governor or colonel Dalrymple, or both together, have authority to remove one regiment, they have authority to remove two; and nothing short of the total evacuation of the town by all the regular troops, will satisfy the public mind or preserve the peace of the province."

These few words thrilled through the veins of every man in the audience, and produced the great result. After a little awkward hesitation, it was agreed that

the town should be evacuated and both regiments sent to the castle.

After all this gravity it is merry enough to relate that William Molineaux, was obliged to march side by side with the commander of some of their troops, to protect them from the indignation of the people, in their progress to the wharf of embarcation for the castle. Nor is it less amusing that lord North, as I was repeatedly and credibly informed in England, with his characteristic mixture of good humour and sarcasm, ever after called these troops by the title of "Sam Adams's two regiments."

The painter should seize upon the critical moment when Samuel Adams stretched out his arm, and made his last speech.

It will be as difficult to do justice, as to paint an Apollo; and the transaction deserves to be painted as much as the surrender of Burgoyne. Whether any artist will ever attempt it, I know not.

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *April* 23, 1818.

DEAR SIR,

YOUR letter of the 5th has been received. Your judgment of Mr. Wirt's biography of my friend, Mr.

Henry, is in exact unison with my own. I have read it with more delight than Scott's romances in verse and prose, or Miss Porter's Scottish Chiefs, and other novels.

I am sorry you have introduced me. I could wish my own name forgotten, if I could develope the true causes of the rise and progress of American revolution and independence.

Why have Harmodius and Brutus, Coligni and Brederode, Cromwell and Napoleon failed, and a thousand others? Because human nature cannot bear prosperity. Success always intoxicates patriots as well as other men; and because birth and wealth always, in the end, overcome popular and vulgar envy, more surely than public interest.

The causes of our parties during and since the revolution, would lead me too far.

You cannot ask me too many questions. I will answer them all according as strength shall be allowed to your aged and infirm friend,

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *May* 12, 1818.

DEAR SIR,

IN my letters to you, I regard no order. And I think, I ought to make you laugh sometimes: otherwise my

letters would be too grave, if not too melancholy. To this end, I send you Jemmibellero, "the song of the drunkard" which was published in Fleet's "Boston Evening Post," on the 13th of May, 1765. It was universally agreed to have been written by Samuel Waterhouse, who had been the most notorious scribbler, satyrist and libeller, in the service of the conspirators, against the liberties of America, and against the administration of governor Pownal, and against the characters of Mr. Pratt and Mr. Tyng. The rascal had wit. But is ridicule the test of truth? You see the bachanalian ha! ha! at Otis's prosodies Greek and Latin; and you see the encouragement of scholarship in that age. The whole legion, the whole phalanx, the whole host of conspirators against the liberties of America, could not have produced Mr. Otis's Greek and Latin prosodies. Yet they must be made the scorn of fools. Such was the character of the age, or rather of the day. Such have been and such will be the rewards of real patriotism in all ages and all over the world.—I am, as ever, your old friend and humble servant,

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *June* 1, 1818.

DEAR SIR,

NO man could have written from memory Mr. Otis's

argument of four or five hours, against the acts of trade, as revenue laws, and against writs of assistants, as a tyrannical engine to execute them, the next day after it was spoken. How awkward, then, would be an attempt to do it after a lapse of fifty seven years? Nevertheless, some of the heads of his discourse are so indelibly imprinted on my mind, that I will endeavour to give you some very short hints of them.

1. He began with an exordium, containing an apology for his resignation of the office of advocate general in the court of admiralty; and for his appearance in that cause in opposition to the crown, and in favour of the town of Boston, and the merchants of Boston and Salem.

2. A dissertation on the rights of man in a state of nature. He asserted, that every man, merely natural, was an independent sovereign, subject to no law, but the law written on his heart, and revealed to him by his Maker, in the constitution of his nature, and the inspiration of his understanding and his conscience. His right to his life, his liberty, no created being could rightfully contest. Nor was his right to his property less incontestible. The club that he had snapped from a tree, for a staff or for defence, was his own. His bow and arrow were his own; if by a pebble he had killed a partridge or a squirrel, it was his own. No creature, man or beast, had a right to take it from him. If he had taken an eel, or a smelt, or a sculpion, it was his property. In short, he sported upon this topic with so much wit and humour, and at the same time so much indisputable truth and reason, that he was not less entertaining than instructive. He asserted, that these rights were inherent and inalienable. That they never could be

surrendered or alienated but by ideots or madmen, and all the acts of ideots and lunatics were void, and not obligatory by all the laws of God and man. Nor were the poor negroes forgotten. Not a Quaker in Philadelphia, or Mr. Jefferson, of Virginia, ever asserted the rights of negroes in stronger terms. Young as I was, and ignorant as I was, I shuddered at the doctrine he taught; and I have all my life time shuddered, and still shudder, at the consequences that may be drawn from such premises. Shall we say, that the rights of masters and servants clash, and can be decided only by force? I adore the idea of gradual abolitions! But who shall decide how fast or how slowly these abolitions shall be made?

3. From individual independence he proceeded to association. If it was inconsistent with the dignity of human nature to say, that men were gregarious animals, like wild horses and wild geese, it surely could offend no delicacy to say they were social animals by nature; that they were mutual sympathies; and, above all, the sweet attraction of the sexes, which must soon draw them together in little groups, and by degrees in larger congregations, for mutual assistance and defence. And this must have happened before any formal covenant, by express words or signs, was concluded. When general counsels and deliberations commenced, the objects could be no other than the mutual defence and security of every individual for his life, his liberty, and his property. To suppose them to have surrendered these in any other way than by equal rules and general consent, was to suppose them ideots or madmen, whose acts were never binding. To suppose them surprised by fraud, or compelled by force, into any other compact, such fraud and such force could confer no obligation. Every man had a

right to trample it under foot whenever he pleased. In short, he asserted these rights to be derived only from nature, and the author of nature; that they were inherent, inalienable, and indefeasible by any laws, pacts, contracts, covenants, or stipulations, which man could devise.

4. These principles and these rights were wrought into the English constitution as fundamental laws. And under this head he went back to the old Saxon laws, and to Magna Charta, and the fifty confirmations of it in parliament, and the execrations ordained against the violators of it, and the national vengeance which had been taken on them from time to time, down to the Jameses and Charleses; and to the petition of rights and the bill of rights, and the revolution. He asserted, that the security of these rights to life, liberty, and property, had been the object of all those struggles against arbitrary power, temporal and spiritual, civil and political, military and ecclesiastical, in every age. He asserted, that our ancestors, as British subjects, and we, their descendants, as British subjects, were entitled to all those rights, by the British constitution, as well as by the law of nature, and our provincial charter, as much as any inhabitant of London or Bristol, or any part of England; and were not to be cheated out of them by any phantom of "virtual representation," or any other fiction of law or politics, or any monkish trick of deceit and hypocrisy.

5. He then examined the acts of trade, one by one, and demonstrated, that if they were considered as revenue laws, they destroyed all our security of property, liberty, and life, every right of nature, and the English constitution, and the charter of the province. Here he considered the distinction between

"external and internal taxes," at that time a popular and common-place distinction. But he asserted there was no such distinction in theory, or upon any principle but "necessity." The necessity that the commerce of the empire should be under one direction, was obvious. The Americans had been so sensible of this necessity, that they had connived at the distinction between external and internal taxes, and had submitted to the acts of trade as regulations of commerce, but never as taxations, or revenue laws. Nor had the British government, till now, ever dared to attempt to enforce them as taxations or revenue laws. They had laid dormant in that character for a century almost. The navigation act he allowed to be binding upon us, because we had consented to it by our own legislature. Here he gave a history of the navigation act of the first of Charles 2d. a plagiarism from Oliver Cromwell. This act had laid dormant for fifteen years. In 1675, after repeated letters and orders from the king, governor Winthrop very candidly informs his majesty, that the law had not been executed, because it was thought unconstitutional; parliament not having authority over us.

I shall pursue this subject in a short series of letters. Providence pursues its incomprehensible and inscrutable designs in its own way, and by its own instruments. And as I sincerely believe Mr. Otis to have been the earliest and the principal founder of one of the greatest political revolutions, that ever occurred among men, it seems to me of some importance, that his name and character should not be forgotten. Young men should be taught to honour merit, but not to adore it. The greatest men have the greatest faults.

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, June 9, 1818.

DEAR SIR,

I HAVE promised you hints of the heads of Mr. Otis's oration, argument, speech, call it what you will, against the acts of trade, as revenue laws, and against writs of assistants, as tyrannical instruments to carry them into execution.

But I enter on the performance of my promise to you, not without fear and trembling; because I am in the situation of a lady, whom you knew first as my client, the widow of Dr. Ames, of Dedham, and afterwards, as the mother of your pupil, the late brilliant orator, Fisher Ames, of Dedham. This lady died last year, at 95 or 96 years of age. In one of her last years she said, "She was in an awkward situation; for if she related any fact of an old date, any body might contradict her, for she could find no witness to keep her in countenance."

Mr. Otis, after rapidly running over the history of the continual terrors, vexations, and irritations, which our ancestors endured from the British government, from 1620, under James 1st. and Charles 1st.; and acknowledging the tranquility under the parliament and Cromwell, from 1648, to the restoration, in 1660, produced the navigation act, as the first fruit of the blessed restoration of a Stuart's reign.

This act is in the 12th year of Charles 2d. chapter 18, "An act for the encouraging and increasing of shipping and navigation."

"For the increase of shipping, and encouragement of the navigation of this nation, wherein, under the good providence and protection of God, the wealth, safety, and strength of this kingdom, is so much concerned, be it enacted, that from and after the first day of December, 1660, and from thence forward, no goods, or commodities, whatsoever, shall be imported into, or exported out of, any lands, islands, plantations, or territories, to his majesty belonging or in his possession, or which may hereafter belong unto or be in the possession of his majesty, his heirs and successors, in Asia, Africa, or America, in any other ship or ships, vessel or vessels, whatsoever, but in such ships or vessels, as do truly and without fraud, belong only to the people of England or Ireland, dominion of Wales, or town of Berwick upon Tweed, or are of the built of, and belonging to, any of the said lands, islands, plantations or territories, as the proprietors and right owners thereof, and whereof the master, and three fourths of the mariners, at least, are English; under the penalty of the forfeiture, and loss of all the goods and commodities which shall be imported into, or exported out of any of the aforesaid places, in any other ship or vessel, as also of the ship or vessel, with all its guns, furniture, tackle, ammunition, and apparel: one third part thereof to his majesty, his heirs and successors: one third part to the governor of such land, plantation, island, or territory, where such default shall be committed, in case the said ship or goods be there seized; or otherwise, that third part also to his majesty, his heirs and successors; and the other third part to him or them who shall seize,

inform, or sue for the same in any court of record, by bill, information, plaint, or other action, wherein no essoin, protection, or wager of law shall be allowed: and all admirals and other commanders at sea, of any of the ships of war or other ships, having commission from his majesty, or from his heirs or successors, are hereby authorized, and strictly required to seize and bring in as prize, all such ships or vessels as shall have offended, contrary hereunto, and deliver them to the court of admiralty, there to be proceeded against; and in case of condemnation, one moiety of such forfeitures shall be to the use of such admirals or commanders, and their companies, to be divided and proportioned among them, according to the rules and orders of the sea, in case of ships taken prize; and the other moiety to the use of his majesty, his heirs and successors."

Section second enacts, all governors shall take a solemn oath to do their utmost, that every clause shall be punctually obeyed. See the statute at large.

See also section third of this statute, which I wish I could transcribe.

Section fourth enacts, that no goods of foreign growth, production or manufacture, shall be brought, even in English shipping, from any other countries, but only from those of the said growth, production or manufacture, under all the foregoing penalties.

Mr. Otis commented on this statute in all its parts, especially on the foregoing section, with great severity. He expatiated on its narrow, contracted, selfish, and exclusive spirit. Yet he could not and would not deny its policy, or controvert the necessity of it, for England, in that age, surrounded as she was by France, Spain, Holland, and other jealous rivals;

nor would he dispute the prudence of governor Leverett, and the Massachusetts legislature, in adopting it, in 1675, after it had laid dormant for fifteen years; though the adoption of it was infinitely prejudicial to the interests, the growth, the increase, the prosperity of the colonies in general, of New England in particular; and most of all, to the town of Boston. It was an immense sacrifice to what was called the mother country. Mr. Otis thought, that this statute ought to have been sufficient to satisfy the ambition, the avarice, the cupidity of any nation, but especially of one who boasted of being a tender mother of her children colonies; and when those children had always been so fondly disposed to acknowledge the condescending tenderness of their dear indulgent mother.

This statute, however, Mr. Otis said, was wholly prohibitory. It abounded, indeed, with penalties and forfeitures, and with bribes to governors and informers, and custom house officers, and naval officers and commanders; but it imposed no taxes. Taxes were laid in abundance by subsequent acts of trade; but this act laid none. Nevertheless, this was one of the acts that were to be carried into strict execution by these writs of assistance. Houses were to be broken open, and if a piece of Dutch linen could be found, from the cellar to the cock loft, it was to be seized and become the prey of governors, informers, and majesty.

When Mr. Otis had extended his observations on this act of navigation, much farther than I dare to attempt to repeat, he proceeded to the subsequent acts of trade. These, he contended, imposed taxes, and enormous taxes, burthensome taxes, oppressive, ruinous, intolerable taxes. And here he gave the reins

to his genius, in declamation, invective, philippic, call it which you will, against *the tyranny of taxation, without representation*.

But Mr. Otis's observations on those acts of trade, must be postponed for another letter.

Let me, however, say, in my own name, if any man wishes to investigate thoroughly, the causes, feelings, and principles of the revolution, he must study this act of navigation and the acts of trade, as a philosopher, a politician, and a philanthropist.

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *June* 17, 1818.

DEAR SIR,

THE next statute produced and commented by Mr. Otis was the 15th of Charles the second, *i. e.* 1663, ch. 7. "An act for the encouragement of trade."

Sec. 5.—"And in regard his majesty's plantations, beyond the seas are inhabited and peopled by his subjects of this his kingdom of England, for the maintaining a greater correspondence and kindness between them, and *keeping them in a firmer dependance upon it*, and rendering them yet more beneficial and advantageous unto it, in the further employment and increase of English shipping and seamen, vent of English woolen and other

manufactures and commodities, rendering the navigation to and from the same, more cheap and safe, and making *this kingdom a staple*, not only of the commodities of those plantations, but also of the commodities of other countries and places, *for the supplying of them*; and it being the usage of other nations to keep their plantations trades to themselves."

Sec. 6.—"Be it enacted, &c. that no commodity of the growth, production or manufacture of Europe, shall be imported into any land, island, plantation, colony, territory or place, to his majesty belonging, or which shall hereafter belong unto or be in possession of his majesty, his heirs and successors, in Asia, Africa or America, (Tangier only excepted) but what shall be *bona fide*, and without fraud, laden and shipped in England, Wales, or the town of Berwick upon Tweed, and in English built shipping, or which were *bona fide* bought before the 1st of October, 1662, and had such certificate thereof as is directed in one act passed the last session of the present parliament, entitled "*An act for preventing frauds and regulating abuses in his majesty's customs*;" and whereof the master, and three fourths of the mariners at least are English, and which shall be carried directly thence, to the said lands, islands, plantations, colonies, territories or places, and from no other place or places whatsoever; any law, statute or usage to the contrary notwithstanding; under the penalty of the loss of all such commodities of the growth, production or manufacture of Europe, as shall be imported into any of them, from any other place whatsoever, by land or water; and if by water, of the ship or vessel also, in which they were imported, with all her guns, tackle, furniture, ammunition and apparel; one third part to his majesty, his heirs and

successors; one third part to the governor of such land, island, plantation, colony, territory or place, into which such goods were imported, if the said ship, vessel or goods be there seized or informed against and sued for; or otherwise, that third part also to his majesty, his heirs and successors; and the other third part to him or them who shall seize, inform, or sue for the same in any of his majesty's courts in such of the said lands, islands, colonies, plantations, territories or places where the offence was committed, or in any court of record in England, by bill, information, plaint, or other action, wherein no *essoin* protection or wager of law shall be allowed."

Sections 7. 8. 9. and 10. of this odious instrument of mischief and misery to mankind, all calculated to fortify by oaths and penalties, the tyrannical ordinances of the preceding sections.

Mr. Otis's observations on these statutes were numerous, and some of them appeared to me at the time, young as I was, bitter. But as I cannot pretend to recollect those observations with precision, I will recommend to you and others to make your own remarks upon them.

You must remember, Mr. Tudor, that you and I had much trouble with these statutes after you came into my office, in 1770; and I had been tormented with them for nine years before, *i. e.* from 1761.

I have no scruple in making a confession with all the simplicity of Jean Jac Rosseau, that I never turned over the leaves of these statutes, or any section of them, without pronouncing a hearty curse upon them.

I felt them, as an humiliation, a degradation a disgrace to my Country and to myself as a native of it.

Let me respectfully recommend to the future orators on the fourth of July, to peruse these statutes in pursuit of principles and feelings that produced the revolution.

Oh! Mr. Tudor, when will France, Spain, England and Holland renounce their selfish, contracted, exclusive systems of religion, government and commerce? I fear, never.

But they may depend upon it, their present systems of colonization cannot endure. Colonies universally, ardently breathe for independence. No man, who has a soul will ever live in a colony, under the present establishments, one moment longer than necessity compels him.

But I must return to Mr. Otis. The burthen of his song was "*Writs of assistance*." All these rigorous statutes were now to be carried into rigorous execution by the still more vigorous instruments of arbitrary power, "*Writs of assistance*."

Here arose a number of very important questions. What were writs of assistance? Where were they to be found? When, where, and by what authority had they been invented, created, and established? Nobody could answer any of these questions.— Neither chief justice Hutchinson, nor any one of his four associate judges, pretended to have ever read or seen in any book any such writ, or to know any thing about it. The court had ordered or requested the bar to search for precedents and authorities for it, but none were found. Otis pronounced boldly, that there

were none, and neither judge nor lawyer, bench or bar, pretended to confute him. He asserted farther, that there was no colour of authority for it, but one produced by Mr. Gridley in a statute of the 13th and 14th of Charles the second, which Mr. Otis said was neither authority, precedent or colour of either, in America. Mr. Thatcher said he had diligently searched all the books, but could find no such writ. He had indeed found in Rastalls Entries, a thing which in some of its features resembling this, but so little like it in the whole, that it was not worth while to read it.

Mr. Gridley, who, no doubt, was furnished, upon this great and critical occasion, with all the information possessed by the governor, lieutenant governor, secretary, custom house officers, and all other crown officers, produced, the statute of the thirteenth and fourteenth of Charles the second, chapter eleventh, entitled, "An Act to prevent frauds, and regulating abuses in his majesty's customs." Section fifth, which I will quote verbatim. "And be it further enacted by the authority aforesaid, that in case, after the clearing of any ship or vessel, by the person or persons which are or shall be appointed by his majesty for managing the customs or any their deputies, and discharging the watchmen and tidesmen from attendance thereupon, there shall be found on board such ship or vessel, any goods, wares or merchandizes, which have been concealed from the knowledge of the said person or persons, which are or shall be so appointed to manage the customs, and for which the custom, subsidy and other duties due upon the importation thereof have not been paid; then the master, purser, or other person taking charge of said ship or vessel, shall forfeit the sum of one hundred pounds: and it shall be lawful, to or for

any person or persons authorized by *writ of assistance under the seal of his majesty's court of exchequer*, to take a constable, headborough, or other public officer, inhabiting near unto the place, and in the day time to enter, and go into any house, shop, cellar, warehouse or room, or other place; and in case of resistance, to break open doors, chests, trunks, and other package, there to seize, and from thence to bring any kind of goods or merchandize whatsoever prohibited and uncustomed, and to put and secure the same, in his majesty's storehouse in the port, next to the place where such seizure shall be made."

Here is all the colour for "Writs of assistance," which the officers of the crown aided by the researches of their learned counsel, Mr. Gridley, could produce.

Where, exclaimed Otis, is your seal of his majesty's court of exchequer? And what has the court of exchequer to do here? But my sheet is full, and my patience exhausted for the present.

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *June* 24, 1818.

DEAR SIR,

MR. OTIS said such a "writ of assistance" might become the reign of Charles 2d. in England, and he would not dispute the taste of the parliament of

England, in passing such an act, nor the people of England in submitting to it; but it was not calculated for the meridian of America. The Court of Exchequer had no jurisdiction here. Her warrants and her writs were never seen here. Or if they should be, they would be waste paper. He insisted however, that these warrants and writs were even in England inconsistent with the fundamental laws, the natural and constitutional rights of the subjects. If, however, it would please the people of England, he might admit, that they were legal there, but not here.

Diligent research had been made by Otis and Thatcher, and by Gridley, aided, as may well be supposed, by the officers of the customs, and by all the conspirators against American liberty, on both sides the water, for precedents and examples of any thing similar to this writ of assistance, even in England. But nothing could be found, except the following: An act of the 12th of Charles 2d. chapter 22. "An act for the regulating the trade of Bay-making, in the Dutch Bay-hall, in Colchester." The fifth section of this statute, "for the better discovering, finding out and punishing of the frauds and deceits, aforesaid, be it enacted, that it shall and may be lawful for the governors of the Dutch Bay-hall, or their officers or any of them, from time to time, in the day time, to search any cart, waggon or pack, wherein they shall have notice, or suspect any such deceitful Bays to be, and also from time to time, with a constable, who are hereby required to be aiding and assisting them, to make search in any house, shop, or warehouse, where they are informed any such deceitful Bays to be, and to secure and seize the same, and to carry them to the Dutch Bay-hall; and that such Bays so seized and carried to the said hall, shall be confiscate and forfeit, to be disposed in

such manner as the forfeitures herein before mentioned, to be paid by the weavers and fullers, are herein before limited and appointed."

The Dutch Bay-hall made sport for Otis and his audience; but was acknowledged to have no authority here, unless by certain distant analogies and constructions, which Mr. Gridley himself did not pretend to urge. Another ridiculous statute was of the 22d and 23d of Charles 2d. chapter 8th, "An act for the regulating the making of Kidderminster Stuffs."

By the eleventh section of this important law, it is enacted, "That the said president, wardens, and assistants of the said Kidderminster weavers, or any two or more of them, shall have, and hereby have power and authority, to enter into and search the houses and workhouses of any artificer under the regulation of the said trade, at all times of the day, and usual times of opening shops and working; and into the shops, houses, and warehouses of any common buyer, dealer in, or retailer of any of the said cloths or stuffs, and into the houses and workhouses of any dyer, sheerman, and all other workmen's houses and places of sale, or dressing of the said cloths, or stuffs and yarns; and may there view the said cloths, stuffs and yarns respectively; and if any cloth, stuff or yarns shall be found defective, to seize and carry away the same to be tried by a jury."

The wit, the humour, the irony, the satire, played off, by Mr. Otis, in his observations on these acts of navigation, Dutch bays and Kidderminster stuffs, it would be madness in me to pretend to remember with any accuracy. But this I do say, that Horace's

"*Irritat, mulcet, veris terroribus implet*," was never exemplified in my hearing with so great effect. With all his drollery, he intermixed solid and sober observations upon the acts of navigation, by Sir Joshua Child, and other English writers upon trade, which I shall produce together in another letter.

It is hard to be called upon, at my age, to such a service as this. But it is the duty of

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *July* 9, 1818.

DEAR SIR,

IN the search for something, in the history and statutes of England, in any degree resembling this *monstrum horrendum ingens*, the writ of assistance, the following examples were found.

In the statute of the first year of king James the second, chapter third, "An act for granting to his majesty an imposition upon all wines and vinegar," &c. Section 8, it is enacted, "That the officers of his majesty's customs &c. shall have power and authority to enter on board ships and vessels and make searches, and to do all other matters and things, which may tend to secure the true payment of the duties by this act imposed, and the due and orderly collection thereof, which any customers, collectors or other officers of any of his majesty's ports can or may

do, touching the securing his majesty's customs of tonnage and poundage," &c. &c. &c. I must refer to the statute for the rest.

In the statute of king James the second, chapter four, "An act for granting to his majesty an imposition upon all tobacco and sugar imported," &c. Section fifth, in certain cases, "The commissioners may appoint one or more officer or officers to enter into all the cellars, warehouses, store cellars, or other places whatsoever, belonging to such importer, to search, see and try," &c. &c. &c. I must again refer to the statute for the rest, which is indeed nothing to the present purpose.

Though the portraits of Charles the second and James the second were blazing before his eyes, their characters and reigns were sufficiently odious to all but the conspirators against human liberty, to excite the highest applauses of Otis's philippics against them and all the foregoing acts of their reigns, which writs of assistance were now intended to enforce. Otis asserted and proved, that none of these statutes extended to America, or were obligatory here by any rule of law, ever acknowledged here, or ever before pretended in England.

Another species of statutes were introduced by the counsel for the crown, which I shall state as they occur to me without any regard to the order of time. 1. of James the second, chapter 17. "An act for the revival and continuance of several acts of parliament therein mentioned," in which the tobacco law among others is revived and continued.

13th and 14th of Charles 2nd, chapter 13. "An act for prohibiting the importation of foreign bone-lace, cutwork, embroidery, fringe, band-strings, buttons

and needle work." Pray sir, do not laugh! for something very serious comes in section third. "Be it further enacted, that for the preventing of the importing of the said manufactures as aforesaid, upon complaint and information given, to the justices of the peace or any or either of them within their respective counties, cities and towns corporate, at times reasonable, he or they are hereby authorized and required to issue forth his or their warrants to the constables of their respective counties, cities and towns, corporate, to enter and search for such manufactures in the shops being open, or warehouses and dwelling houses of such person or persons, as shall be suspected, to have any such foreign bone-laces, embroideries, cut-work, fringe, band-strings, buttons or needle work within their respective counties, cities, and towns corporate, and to seize the same, any act, statute or ordinance to the contrary thereof in any wise notwithstanding."

Another curious act was produced, to prove the legality of writs of assistance, though it was no more to the purpose than all the others. I mean the statute of the 12th of Charles the second, chapter third, "An act for the continuance of process and judicial proceedings continued." In which it is enacted, section first, "That no pleas, writs, bills, actions, suits, plaints, process, precepts, or other thing or things, &c. shall be in any wise continued," &c.

But I must refer to the act. I cannot transcribe. If any antiquarian should hereafter ever wish to review this period, he will see with compassion how such a genius as Otis was compelled to delve among the rubbish of such statutes, to defend the country against the gross sophistry of the crown and its officers.

Another act of 12 C. 2d, ch. 12, "An act for confirmation of judicial proceedings," in which it is enacted, &c. "that nor any writs, or actions on, or returns of any writs, orders or other proceedings in law or equity, had made, given, taken or done, or depending in the courts of chancery, king's bench, upper bench, common pleas, and court of exchequer, and court of exchequer chamber, or any of them, &c. in the kingdom of England, &c. shall be avoided, &c." I must refer to the statute.

In short, wherever the custom house officers could find in any statute the word "writs", the word "continued" and the words "court of exchequer," they had instructed their counsel to produce it, though in express "words restricted to the realm." Mr. Gridley was incapable of prevaricating or duplicity.

It was a moral spectacle, more affecting to me than any I have since seen upon any stage, to see a pupil treating his master with all the deference, respect, esteem and affection of a son to a father, and that without the least affectation; while he baffled and confounded all his authorities, and confuted all his arguments and reduced him to silence.

Indeed, upon the principle of construction, inference, analogy, or corollary, by which they extended these acts to America, they might have extended the jurisdiction of the court of king's bench, and court of common pleas, and all the sanguinary statutes against crimes and misdemeanors, and all their church establishment of archbishops and bishops, priests, deacons, deans and chapters; and all their acts of uniformity, and all their acts against conventicles.

I have no hesitation or scruple to say that the commencement of the reign of George the third was the commencement of another Stuart's reign: and if it had not been checked by James Otis and others first, and by the great Chatham and others afterwards, it would have been as arbitrary as any of the four. I will not say it would have extinguished civil and religious liberty upon earth; but it would have gone great lengths towards it, and would have cost mankind even more than the French revolution to preserve it. The most sublime, profound and prophetic expression of Chatham's oratory that he ever uttered was, "I rejoice that America has resisted; two millions of people reduced to servitude, would be fit instruments to make slaves of the rest."

Another statute was produced, 12 C. 2. cap. 19, "An act to prevent frauds and concealments of his majesty's customs and subsidies." "Be it enacted," &c. "that if any person or persons &c. shall cause any goods, for which custom, subsidy, or other duties are due or payable, &c. to be landed or conveyed away, without due entry thereof first made and the customer or collector, or his deputy agreed with; that then and in such case, *upon oath thereof made* before the lord treasurer, or any of the barons of the exchequer, or chief magistrate of the port or place where the offence shall be committed, or the next adjoining thereto, it shall be lawfull, to and for the lord treasurer, or any of the barons of the exchequer, or the chief magistrate of the port or place, &c. to issue out a warrant to any person or persons, thereby enabling him or them, with the assistance of a sheriff, justice of the peace or constable, to enter into any house in the day time where such goods are suspected to be concealed, and in case of resistance, to break open such houses, and to seize and secure

the same goods so concealed; and all officers and ministers of justice are hereby required to be aiding and assisting thereunto."

Such was the sophistry; such the chicanery of the officers of the crown, and such their power of face, as to apply these statutes to America and to the petition for writs of assistance from the superior court.

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *July* 14, 1818.

DEAR SIR,

MR. OTIS, to show the spirit of the acts of trade, those I have already quoted, as well as of those I shall hereafter quote, and as the best commentaries upon them, produced a number of authors upon trade, and read passages from them, which I shall recite, without pretending to remember the order in which he read them.

1. Sir Josiah Child, "A new discourse of trade." Let me recommend this old book to the perusal of my inquisitive fellow citizens. A discerning mind will find useful observations on the interest of money, the price of labour, &c. &c. &c. I would quote them all, if I had time. But I will select one. In page 15, of his preface, he says, "I understand not the world so little,

as not to know, that he that will faithfully serve his country, must be *content* to pass through good report, and evil report." I cannot agree to that word, "*content*." I would substitute instead of it, the words, "as patient as he can." Sir Josiah adds, "neither regard I, which I meet with." This is too cavalierly spoken. It is not sound philosophy. Sir Joshua proceeds: "Truth I am sure at last will vindicate itself, and be found by my countrymen." Amen! So be it! I wish I could believe it.

But it is high time for me to return from this ramble to Mr. Otis's quotations from Sir Joshua Child, whose chapter four, page 105, is "concerning the act of navigation." Probably this knight was one of the most active and able inflamers of the national pride in their navy and their commerce, and one of the principal promoters of that enthusiasm for the act of navigation, which has prevailed to this day. For this work was written about the year 1677, near the period when the court of Charles 2d. began to urge and insist on the strict execution of the act of navigation. Such pride in that statute did not become Charles, his court or his nation of royalists and loyalists, at that time. For shall I blush, or shall I boast, when I remember, that this act was not the invention of a Briton, but of an American. George Downing, a native of New England, educated at Harvard College, whose name, office, and title appear in their catalogue, went to England in the time of lord Clarendon's civil wars, and became such a favourite of Cromwell and the ruling powers, that he was sent ambassador to Holland. He was not only not received, but ill treated, which he resented on his return to England, by proposing an act of navigation, which was adopted, and has ruined Holland, and would have ruined America, if she had not resisted.

To borrow the language of the great Dr. Johnson this "Dog" Downing must have had a head and brains, or in other words genius and address: but if we may believe history, he was a scoundrel. To ingratiate himself with Charles 2d. he probably not only pleaded his merit in inventing the navigation act, but he betrayed to the block some of his old republican and revolutionary friends.

George Downing! Far from boasting of thee as my countryman, or of thy statute as an American invention; if it were lawful to wish for any thing past, that has not happened, I should wish that thou hadst been hanged, drawn, and quartered, instead of Hugh Peters, and Sir Henry Vane. But no! This is too cruel for my nature! I rather wish, that thou hadst been obliged to fly with thy project, and report among the rocks and caves of the mountains in New England.

But where is Downing's statute? British policy has suppressed all the laws of England, from 1618 to 1660. The statute book contains not one line. Such are records, and such is history.

The nation, it seems, was not unanimous in its approbation of this statute. The great knight himself informs us, page 105, "that some wise and honest gentlemen and merchants doubted whether the inconveniences it has brought with it be not greater than the conveniences." This chapter was, therefore, written to answer all objections; and vindicate and justify Downing's statute.

Mr. Otis cast an eye over this chapter, and adverted to such observations in it, as tended to show the spirit of the writer, and of the statute; which might be summed up in this comprehensive Machiavelian

principle, *that earth, air, and seas, all colonies and all nations were to be made subservient to the growth, grandeur and power of the British navy*.

And thus, truly, it happened. The two great knights, Sir George Downing, and Sir Josiah Child, must be acknowledged to have been great politicians!

Mr. Otis proceeded to chapter 10, of this work, page 166, "concerning plantations." And he paused at the 6th proposition, in page 167, "That all colonies and plantations, do endamage their mother kingdoms, whereof the trades of such plantations are not confined by severe laws, and good executions of those laws, to the mother kingdom."

Mr. Otis then proceeded to seize the key to the whole riddle, in page 168, proposition eleventh, "*that New England is the most prejudicial plantation to the kingdom of England*." Sir George Downing, no doubt, said the same to Charles 2d.

Otis proceeded to page 170, near the bottom, "*we must consider what kind of people they were and are that have and do transport themselves to our foreign plantations*." New England, as every one knows, was originally inhabited, and hath since been successively replenished by a sort of people called Puritans, who could not conform to the ecclesiastical laws of England; but being wearied with church censures and persecutions, were forced to quit their fathers' land, to find out new habitations, as many of them did in Germany and Holland, as well as at New England; and had there not been a New England found for some of them, Germany and Holland probably had received the rest: but Old England, to be sure, would have lost them all.

"Virginia and Barbadoes were first peopled by a sort of loose, vagrant people, vicious, and destitute of the means to live at home, (being either unfit for labour, or such as could find none to employ themselves about, or had so misbehaved themselves by whoring, thieving, or other debauchery, that none would set them at work) which merchants and masters of ships, by their agents, (or spirits, as they were called) gathered up about the streets of London, and other places, clothed and transported, to be employed upon plantations; and these I say, were such as, had there been no English foreign plantation in the world, could probably never have lived at home, to do service for their country, but must have come to be hanged, or starved, or died untimely of some of those miserable diseases, that proceed from want and vice; or else have sold themselves for soldiers, to be knocked on the head, or starved in the quarrels of our neighbours, as many thousands of brave Englishmen were in the low countries, as also in the wars of Germany, France, and Sweden, &c. or else, if they could by begging or otherwise, arrive to the stock of 2s. 6d. to waft them over to Holland, become servants to the Dutch, who refuse none.

"But the principal growth and increase of the aforesaid plantations of Virginia and Barbadoes, happened in, or immediately after, our late civil wars, when the worsted party, by the fate of war, being deprived of their estates, and having, some of them, never been bred to labour, and others of them made unfit for it by the lazy habit of a soldier's life, their wanting means to maintain them all abroad, with his majesty, many of them betook themselves to the aforesaid plantations; and great numbers of Scotch soldiers of his majesty's army, after Worcester fight, were by the then prevailing powers voluntarily

sent thither.

"Another great swarm or accession of the new inhabitants to the aforesaid plantations, as also to New England, Jamaica, and all other his majesty's plantations in the West Indies, ensued upon his majesty's restoration, when the former prevailing party being by a divine hand of providence brought under, the army disbanded, many officers displaced, and all the new purchasers of public titles dispossessed of their pretended lands, estates, &c. many became impoverished, and destitute of employment; and therefore such as could find no way of living at home, and some who feared the re-establishment of the ecclesiastical laws, under which they could not live, were forced to transport themselves, or sell themselves for a few years, to be transported by others, to the foreign English plantations. The constant supply, that the said plantations have since had, hath been such vagrant, loose people, as I have before mentioned, picked up especially about the streets of London and Westminster, and malefactors condemned for crimes, for which by law they deserved to die; and some of those people called quakers, banished for meeting on pretence of religious worship.

"Now, if from the premises it be duly considered, what kind of persons those have been, by whom our plantations have at all times been replenished, I suppose it will appear, that such they have been, and under such circumstances, that if his majesty had had no foreign plantations to which they might have resorted, England, however, must have lost them."

Any man, who will consider with attention these passages from Sir Josiah Child, may conjecture what

Mr. Otis's observations upon them were. As I cannot pretend to remember them verbatim, and with precision, I can only say, that they struck me very forcibly. They were short, rapid; he had not time to be long: but Tacitus himself could not express more in fewer words. My only fear is, that I cannot do him justice.

In the first place, there is a great deal of true history in this passage, which manifestly proves, that the emigrants to America, in general, were not only as good as the people in general, whom they left in England, but much better, more courageous, more enterprizing, more temperate, more discreet, and more industrious, frugal, and conscientious: I mean the royalists as well as the republicans.

In the second place, there is a great deal of uncandid, ungenerous misrepresentations, and scurrilous exaggeration, in this passage of the great knight, which prove him to have been a fit tool of Charles 2d. and a suitable companion, associate and friend of the great knight, Sir George Downing, the second scholar in Harvard College catalogue.

But I will leave you, Mr. Tudor, to make your own observations and reflections upon these pages of Sir Josiah Child.

Mr. Otis read them with great reluctance; but he felt it his duty to read them, in order to show the spirit of the author, and the spirit of Sir George Downing's navigation act.

But, my friend, I am weary. I have not done with Mr. Otis or Sir Josiah Child. I must postpone, to another letter from your friend,

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *July* 17, 1818.

DEAR SIR,

MR. OTIS proceeded to page 198, of this great work of the great knight, sir Josiah Child.

Proposition eleventh, "That New England is the most prejudicial plantation in this kingdom."

"I am now to write of a people whose frugality, industry and temperance, and the happiness of whose laws and institutions do promise to themselves long life, with a wonderful increase of people, riches and power: and although no men ought to envy that virtue and wisdom in others, which themselves either cannot or will not practice, but rather to command and admire it; yet I think it the duty of every good man primarily to respect the welfare of his native country; and therefore, though I may offend some whom I would not willingly displease, I cannot omit, in the progress of this discourse, to take notice of some particulars, wherein Old England suffers diminution by the growth of those colonies settled in New England, and how that plantation differs from those more southerly, with respect to the gain or loss of this kingdom, viz.

"All our American plantations, except that of New England, produce commodities of different natures

from those of this kingdom, as sugar, tobacco, cocoa, wool, ginger, sundry sorts of dying woods, &c. Whereas, New England produces generally the same we have here, viz: corn and cattle: some quantity of fish they do likewise kill, but that is taken and saved altogether by their inhabitants, which prejudiceth our Newfoundland trade; whereas, as hath been said, very few are or ought, according to prudence, be employed in those fisheries but the inhabitants of Old England. The other commodities we have from them are some few great masts, furs, and train oil, whereof the yearly value amounts to very little, the much greater value of returns from thence being made in sugar, cotton, wool, tobacco, and such like commodities, which they first receive from some other of his majesty's plantations in barter for dry cod fish, salt mackerel, beef, pork, bread, beer, flour, peas, &c. which they supply Barbadoes, Jamaica, &c. with, to the diminution of the vent of those commodities from this kingdom; the greatest expense whereof in our West India plantations would soon be found in the advance of the value of our lands in England, were it not for the vast and almost incredible supplies those colonies have from New England.

"2. The people of New England, by virtue of their primitive charters, being not so strictly tied to the observation of the laws of this kingdom, do sometimes assume a liberty of trading, contrary to the act of navigation, by reason whereof many of our American commodities, especially tobacco and sugar, are transported in New England shipping directly into Spain and other foreign countries, without being landed in England, or paying any duty to his majesty, which is not only loss to the king, and a prejudice to the navigation of Old England, but also a total

exclusion of the old English merchants from the vent of those commodities in those ports where the new English vessels trade; because there being no custom paid on those commodities in New England, and a great custom paid upon them in Old England, it must necessarily follow that the New English merchant will be able to afford his commodities much cheaper at the market, than the Old English merchant: and those that can sell cheapest, will infallibly engross the whole trade, sooner or later.

"3. Of all the American plantations, his majesty hath none, so apt for the building of shipping as New England, nor none so comparably qualified for breeding of seamen, not only by reason of the natural industry of that people, but principally by reason of their cod and mackerel fisheries: and in my poor opinion, there is nothing more prejudicial, and in prospect more dangerous to any mother kingdom, than the increase of shipping in her colonies, plantations and provinces."

"4. The people that evacuate from us to Barbadoes, and the other West India plantations, as was hinted, do commonly work one Englishman to ten blacks; and if we kept the trade of our said plantation entirely to England, England would have no less inhabitants, but rather an increase of people by such evacuation; because that one Englishman, with the ten blacks that work with him, accounting what they eat, use, and wear, would make employment for four men in England, as was said before; whereas, peradventure, of ten men that issue from us to New England.

"To conclude this chapter, and to do right to that most industrious English colony; I must confess, that

though we lose by their unlimited trade with our foreign plantations, yet we are very great gainers by their direct trade to and from Old England: our yearly exportations of English manufactures, malt, and other goods, from hence thither, amounting in my opinion to ten times the value of what is imported from thence; which calculation I do not make at random, but upon mature consideration, and peradventure upon as much experience in this very trade as any other person will pretend to: and therefore, whenever a reformation of our correspondency in trade with that people shall be thought on, it will in my poor judgment require great tenderness and very serious circumspection."

Mr. Otis's humour and satire were not idle upon this occasion, but his wit served only to increase the effect of a subsequent, very grave and serious remonstrance and invective against the detestable principles of the foregoing passages, which he read with regret, but which it was his duty to read, in order to shew the temper, the views and the objects of the knight, which were the same with those of all the acts of trade anterior and posterior, to the writing of this book: and those views, designs and objects were, to annul all the New England charters, and they were but three, Massachusetts, Rhode Island and Connecticut; to reduce all the colonies to royal governments, to subject them all to the supreme domination of parliament, who were to tax us, without limitation, who would tax us whenever the crown would recommend it, which crown would recommend it, whenever the ministry for the time being should please, and which ministry would please as often as the West India planters and North American governors, crown officers and naval commanders should solicit more fees, salaries,

penalties and forfeitures.

Mr. Otis had no thanks for the knight for his pharisaical compliment to New England, at the expense of Virginia and other colonies who for any thing he knew were equally meritorious. It was certain the first settlers of New England were not all godly. But he reprobated in the strongest terms that language can command, the machiavilian, the jesuitical, the diabolical and infernal principle that men, colonies and nations were to be sacrificed, because they were industrious and frugal, wise and virtuous, while others were to be encouraged, fostered and cherished, because they were pretended to be profligate, vicious and lazy.

But, my friend, I must quit Josiah Child, and look for others of Mr. Otis's authorities.

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *July* 27, 1818.

DEAR SIR,

ANOTHER author produced by Mr. Otis was, "The trade and navigation of Great Britain considered," by Joshua Gee. "A new edition, with many interesting notes and additions by a merchant," printed in 1767. This new edition, which was printed no doubt to justify the ministry in the system they were then pursuing, could not be the edition that Mr. Otis

produced in 1761. The advertisement of the editor informs us that "This valuable treatise has for many years been very scarce, though strongly recommended by the best judges and writers on trade, and universally allowed to be one of the most interesting books on that subject." "The principles upon which it was written continue, with little variation." But I am fatigued with quotations, and must refer you to the advertisement in the book, which will shew, past a doubt, that this was a ministerial republication. The "feelings, the manners and principles," which produced the revolution, will be excited and renovated by the perusal of this book, as much as by that of sir Josiah Child. I wish I could fill sheets of paper with quotations from it; but this is impossible. If I recommend it to the research, and perusal, and patient thinking of the present generation, it is in despair of being regarded. For who will engage in this dry, dull study? Yet Mr. Otis laboured in it. He asserted and proved, that it was only a reinforcement of the system of sir Josiah Child, which Gee approved in all things, and even quoted with approbation the most offensive passage in his book, the scurrilous reflections on Virginia and Barbadoes.

Another writer produced by Mr. Otis was "Memoirs and considerations, concerning the trade and revenues of the British colonies in America; with proposals for rendering those colonies more beneficial to Great Britain. By John Ashley, Esq."

This book is in the same spirit and system of Josiah Child and Joshua Gee.

Mr. Otis also quoted Postlethwait. But I can quote no more.

If any man of the present age can read these authors and not feel his "feelings, manners and principles," shocked and insulted, I know not of what stuff he is made. All I can say is, that I read them all in my youth, and that I never read them without being set on fire.

I will, however, transcribe one passage from Ashley, painful as it is. In page 41, he says, "The laws now in being, for the regulation of the plantation trade, viz. the 14 of Charles the second, ch. II. sec. 2, 3, 9, 10; 7 and 8 William III. ch. 22. sec. 5, 6; 6 George II. ch. 13, are very well calculated, and were they put in execution as they ought to be, would in a great measure put an end to the mischiefs here complained of. If the several officers of the customs would see that all entries of sugar, rum and molasses, were made conformable to the directions of those laws; and let every entry of such goods distinguish expressly, what are of British growth and produce, and what are of foreign growth and produce; and let the whole cargo of sugar, penneles, rum, spirits, molasses and syrup, be inserted at large in the manifest and clearance of every ship or vessel, under office seal, or be liable to the same duties and penalties as such goods of foreign growth are liable to.

"This would very much baulk the progress of those who carry on this illicit trade, and be agreeable and advantageous to all fair traders.

"And all masters and skippers of boats in all the plantations, should give some reasonable security, not to take in any such goods of foreign growth, from any vessel not duly entered at the custom-house, in order to land the same, or put the same on board any

other ship or vessel, without a warrant or sufferance from a proper officer."

But you will be fatigued with quotations, and so is your friend,

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *July* 30, 1818.

DEAR SIR,

ANOTHER passage which Mr. Otis read from Ashley gave occasion, as I suppose, to another memorable and very curious event, which your esteemed pupil and my beloved friend judge Minot has recorded.

The passage is in the 42d page. "In fine, I would humbly propose that the duties on foreign sugar and rum imposed by the before mentioned act of the 6th of king George the second, remain as they are, and also the duty on molasses, so far as concerns the importations into the sugar colonies; but that there be an abatement of the duty on molasses imported into the northern colonies, so far as to give the British planters a reasonable advantage over foreigners, and what may bear some proportion to the charge, risque and inconvenience of running it, in the manner they now do, or after the proposed regulation shall be put in execution: whether this duty shall be one, two or three pence, sterling money of Great Britain per gallon, may be matter of

consideration." Gracious and merciful indeed! The tax might be reduced and made supportable, but not abolished. Oh! No! by no means.

Mr. Hutchinson, however, seized this idea of Ashley, of reducing the tax on molasses, from six pence to three pence or two pence or a penny, and the use he made of it you shall learn from your own pupil and my amiable friend judge Minot.

Volume 2d. page 142. "About this time there was a pause in the opposition to the measures of the crown and parliament, which might have given some appearance of the conciliation of parties, but which was more probably owing to the uncertainty of the eventual plan of the ministry, and the proper ground for counteracting it. The suppressing of the proposed instructions to the agent by a committee of the house of representatives, indicated that this balance of power there was unsettled. Several circumstances shewed a less inflexible spirit, than had existed among the leaders."

"The governor appointed the elder Mr. Otis a justice of the court of common pleas, and judge of probate for the county of Barnstable. The younger wrote a pamphlet on the rights of the British colonies, in which he acknowledged the sovereignty of the British parliament, as well as the obligations of the colonies to submit to such burdens as it might lay upon them, until it should be pleased to relieve them; and put the question of taxing America upon the footing of the common good."

I beg your attention to Mr. Minot's history, vol. 2, from page 140 to the end of the chapter in page 152. Mr. Minot has endeavoured to preserve the dignity, the impartiality and the delicacy of history. But it

was a period of mingled glory and disgrace. But as it is a digression from the subject of Mr. Otis's speech against writs of assistance, I can pursue it no further at present. Mr. Hutchinson seized the idea of reducing the duties. Mr. Otis and his associates seemed to despair of any thing more. Hutchinson was chosen agent, to the utter astonishment of every American out of doors. This was committing the lamb to the kind guardianship of the wolf. The public opinion of all the friends of their country was decided. The public voice was pronounced in accents so terrible that Mr. Otis fell into a disgrace from which nothing but *Jemmibullero*[4] saved him. Mr. Hutchinson was politely excused from his embassy, and the storm blew over. Otis, upon whose zeal, energy, and exertions the whole great cause seemed to depend, returned to his duty, and gave entire satisfaction to the end of his political career.

Thus ended the piddling project of reducing the duty on molasses from six pence a gallon, to five pence, four pence, three pence, two pence or a penny. And one half penny a gallon, would have abandoned the great principle, as much as one pound.

This is another digression from the account of Mr. Otis's argument against writs of assistance and the acts of trade. I have heretofore written you on this subject. The truth, the whole truth, must and will and ought to come out; and nothing but the truth shall appear, with the consent of your humble servant,

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *August* 6, 1818.

"*Mid the low murmurs of submission, fear and mingled rage, my Hampden raised his voice, and to the laws appealed.*"

DEAR SIR,

MR. OTIS had reasoned like a philosopher upon the navigation acts, and all the tyrannical acts of Charles 2d.; but when he came to the revenue laws, the orator blazed out. Poor king William! If thy spirit, whether in heaven or elsewhere, heard James Otis, it must have blushed. A stadtholder of Holland, by accident, or by miracle, vested with a little brief authority, in England, cordially adopting the system of George Downing, Josiah Child, and Charles 2d. for the total destruction of that country to which he owed his existence, and all his power and importance in the world. And, what was still worse, joining in the conspiracy, with such worthy characters to enslave all the colonies in Europe, Asia, and America; and indeed all nations, to the omnipotence of the British parliament, and its Royal navy.

The act of parliament of the seventh and eighth of king William 3d. was produced, chapter 22d. "An act for preventing frauds, and regulating abuses in the plantation trade." I wish I could transcribe this whole statute, and that which precedes it: "An act for the encouragement of seamen," but who would read them? Yet it behoves our young and old yeomen, mechanics, and labourers, philosophers, politicians, legislators, and merchants to read them. However tedious and painful it may be for you to read, or me

to transcribe, any part of these dull statutes, we must endure the task, or we shall never understand the American revolution. Recollect and listen to the preamble of this statute, of the 7th and 8th of William 3d. chapter 22d.

"Whereas, notwithstanding diverse acts made for *the encouragement of the navigation of this kingdom*, and for the better securing and regulating the plantation trade, more especially one act of parliament made in the 12th year of the reign of the late king Charles 2d. intituled, an act for the increasing of shipping and navigation. Another act made in the 15th year of the reign of his said late majesty, intituled an act for the encouragement of trade. Another act made in the 22d and 23d years of his said late majesty's reign, intituled, an act to prevent the planting of tobacco in England, and for regulation of the plantation trade. Another act, made in the 25th year of the reign of his said late majesty, intituled, an act for the encouragement of the Greenland and Eastland fisheries, and for the better securing the plantation trade, great abuses are daily committed, to the prejudice of the English navigation, and the loss of a great part of the plantation trade to this kingdom, by the artifice and cunning of ill disposed persons; for remedy whereof for the future," &c.

Will you be so good, sir, as to pause a moment on this preamble? To what will you liken it? Does it resemble a great, rich, powerful West India planter; Alderman Beckford, for example, preparing and calculating and writing instructions for his overseers? "You are to have no regard to the health, strength, comfort, natural affections, or moral feelings, or intellectual endowments of my negroes.

You are only to consider what subsistence to allow them, and what labour to exact of them, will subserve my interest. According to the most accurate calculation I can make, the proportion of subsistence and labour which will work them up, in six years upon an average, is the most profitable to the planter." And this allowance, surely, is very humane; for we estimate here, the lives of our coal-heavers upon an average at only two years, and our fifty thousand girls of the town at three years at most. "And our soldiers and seamen no matter what."

Is there, Mr. Tudor, in this preamble, or in any statute of Great Britain, in the whole book, the smallest consideration of the health, the comfort, the happiness, the wealth, the growth, the population, the agriculture, the manufactures, the commerce, the fisheries of the American people? All these things are to be sacrificed to British wealth, British commerce, British domination, and the British navy, as the great engine and instrument to accomplish all. To be sure, they were apt scholars of their master, Tacitus, whose fundamental and universal principle of philosophy, religion, morality, and policy, was, that all nations and all things were to be sacrificed to the grandeur of Rome. Oh! my fellow citizens, that I had the voice of an archangel to warn you against these detestable principles. The world was not made for you, you were made for the world. Be content with your own rights. Never usurp those of others. What would be the merit, and the fortunes of a nation, that should never do or suffer wrong?

The purview of this statute, was in the same spirit with the preamble; pray read it! Old as you are; you are not so old as I am; and I assure you I have conquered my natural impatience so far as to read it

again, after almost sixty years acquaintance with it, in all its horrid deformity.

Every artifice is employed to ensure a rigorous, a severe, a cruel execution of this system of tyranny. The religion, the morality, of all plantation governors, of all naval commanders, of all custom house officers, if they had any, and all men have some, were put in requisition by the most solemn oaths. Their ambition was inlisted by the forfeiture of their officers; their avarice was secured by the most tempting penalties and forfeitures, to be divided among them. Fine picking to be sure! Even the lowest, the basest informers were to be made gentlemen of fortune!

I must transcribe one section of this detestable statute, and leave you to read the rest; I can transcribe no more.

The sixth section of this benign law, of our glorious deliverer king William, is as follows:

Section 6. "And for the more effectual preventing of frauds, and regulating abuses in the plantation trade, in America, be it further enacted by the authority aforesaid, that all ships coming into, or going out of any of the said plantations, and lading, or unlading any goods or commodities, whether the same be his majesty's ships of war, or merchant ships, and the masters and commanders thereof, and their ladings, shall be subject and liable to the same rules, visitations, searches, penalties, and forfeitures, as to the entering, landing, and discharging their respective ships and ladings, as ships and their ladings, and the commanders and masters of ships, are subject and liable unto in this kingdom, by virtue of an act of parliament made in the fourteenth year

of the reign of king Charles 2d. intituled, an act for preventing frauds, and regulating abuses in his majesty's customs. And that the officers for collecting and managing his majesty's revenue, and inspecting the plantation trade, and in any of the said plantations, shall have the same powers and authorities, for visiting and searching of ships, and taking their entries, and for seizing and securing, or bringing on shore any of the goods prohibited to be imported or exported into or out of any the said plantations, or for which any duties are payable, or ought to have been paid, by any of the before mentioned acts, as are provided for the officers of the customs in England by the said last mentioned act, made in the fourteenth year of the reign of king Charles 2d.; and also to enter houses or warehouses, to search for and seize any such goods; and that all the wharfingers, and owners of keys and wharves, or any lightermen, bargemen, watermen, porters, or other persons assisting in the conveyance, concealment, or rescue of any of the said goods, or in the hindering or resistance of any of the said officers in the performance of their duty, and the boats, barges, lighters, or other vessels employed in the conveyance of such goods, shall be subject to the like pains and penalties as are provided by the same act made in the fourteenth year of the reign of king Charles 2d. in relation to prohibited or unaccustomed goods in this kingdom; and that "*the like assistance*" shall be given to the said officers in the execution of their office, as by the said last mentioned act is provided for the officers in England; and also, that the said officers shall be subject to the same penalties and forfeitures, for any corruptions, frauds, connivances, or concealments, in violation of any the before mentioned laws, as any officers of the

customs in England are liable to, by virtue of the last mentioned act; and also, that in case any officer or officers in the plantations shall be seized or molested for any thing done in the execution of their office, the said officer shall and may plead the general issue, and shall give this or other custom acts in evidence, and the judge to allow thereof, have and enjoy the like privileges and advantages, as are allowed by law to the officers of his majesty's customs in England."

Could it be pretended, that the superior court of judicature, court of assize, and general goal delivery in the province of Massachusetts bay had all the powers of the court of exchequer in England, and consequently could issue warrants like his majesty's court of exchequer in England? No custom house officer dared to say this, or to instruct his counsel to say it. It is true, this court was invested with all the powers of the courts of king's bench, common pleas and exchequer in England. But this was a law of the province, made by the provincial legislature, by virtue of the powers vested in them by the charter.

Otis called and called in vain for their warrant from "his majesty's court of exchequer." They had none, and they could have none from England, and they dared not say, that Hutchinson's court was "his majesty's court of exchequer." Hutchinson himself dared not say it. The principle would have been fatal to parliamentary pretensions.

This is the second and the last time, I believe, that the word "*assistance*" is employed in any of these statutes. But the words "writs of assistance" were no where to be found; in no statute, no law book, no volume of entries; neither in Rastall, Coke, or

Fitzherbert, nor even in Instructor Clericalis, or Burns's Justice. Where, then, was it to be found? No where, but in the imagination or invention of Boston custom house officers, royal governors, West India planters, or naval commanders.

It was indeed a farce. The crown, by its agents, accumulated construction upon construction, and inference upon inference, as the giants heaped Pelion upon Ossa. I hope it is not impious or profane to compare Otis to Ovid's jupiter. But "*misso fulmine perfregit Olympum, et excussit Subjecto Pelio Ossam.*" He dashed this whole building to pieces, and scattered the pulverized atoms to the four winds; and no judge, lawyer, or crown officer dared to say, why do you so? They were all reduced to total silence.

In plain English, by cool, patient comparison of phraseology of these statutes, their several provisions, the dates of their enactments, the privileges of our charters, the merits of the colonists, &c. he shewed the pretensions to introduce the revenue acts, and these arbitrary and mechanical writs of assistance, as an instrument for the execution of them to be so irrational; by his wit he represented the attempt as so ludicrous and ridiculous; and by his dignified reprobation of an impudent attempt to impose on the people of America; he raised such a storm of indignation, that even Hutchinson, who had been appointed on purpose to sanction this writ, dared not utter a word in its favour; and Mr. Gridley himself seemed to me to exult inwardly at the glory and triumph of his pupil.

This, I am sure, must be enough, at this time, and from this text to fatigue you, as it is more than

enough to satisfy your most obedient, &c.

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, August 11, 1818.

DEAR SIR,

THE "Defence of the New England charters by Jer. Dummer," is, both for style and matter, one of our most classical American productions. "The feelings, the manners and principles which produced the revolution," appear in as vast abundance in this work, as in any, that I have read. This beautiful composition ought to be reprinted and read by every American who has learned to read. In pages 30 and 31, this statute of 7th and 8th of king William, ch. 22. sec. 9th, is quoted, "All laws, by-laws, usages or customs, at this time, or which hereafter shall be in practice, or endeavoured or pretended to be in force or practice in any of the plantations, which are in any wise repugnant to this present act, or any other law hereafter to be made in this kingdom, so far as such law shall relate to and mention the plantations, are illegal, null and void to all intents and purposes whatsoever." This passage Mr. Otis quoted, with a very handsome eulogium of the author and his book. He quoted it for the sake of the rule established in it by parliament itself for the construction of its own statutes. And he contended that by this rule there could be no pretence for extending writs of

assistance to this country. He also alluded to many other passages in this work, very applicable to his purpose, which any man who reads it must perceive, but which I have not time to transcribe.

If you, or your inquisitive and ingenious son, or either of my sons or grandsons or great grand sons, should ever think of these things, it may not be improper to transcribe from a marginal note at the end of this statute, an enumeration of the "Further provisions concerning plantations." II. W. 3, c. 12; 3, 4 of An. c. 5 and 10; 6 of An. c. 30; 8 of An. c. 13; 9th of An. c. 17; 10 An. c. 22 and 26; 4 Geo. 1, c. 11; 5 Geo. 1, c. 12 and 15; 13 Geo. 1, c. 5; 3 Geo. 2, c. 12 and 28; 4 Geo. 2, c. 15; 5 Geo. 2, c. 7 and 9; 6 Geo. 2, c. 15; 8 Geo. 2, c. 13; 8 Geo. 2, c. 19; 12 Geo. 2, c. 30; 15 Geo. 2, c. 31 and 33; 24 Geo. 2, c. 51 and 53; 29 Geo. 2, c. 5 and 35; and 30 Geo. 2, 9.

The vigilance of the crown officers and their learned counsel on one side, and that of merchants, patriots and their counsel on the other, produced every thing in any of these statutes which could favor their respective arguments. It would not only be ridiculous in me, but culpable to pretend to recollect all that were produced. Such as I distinctly remember I will endeavour to introduce to your remembrance and reflections.

Molasses or melasses or molosses, for by all these names, they are designated in the statutes. By the statute of the second year of our glorious deliverers, king William and queen Mary, session second, chapter four, section 35. "For every hundred weight of molosses, containing 112 pounds, imported from any other place than the English plantations in America, eight shillings over and above what the

same is charged within the book of rates."

The next statute that I recollect, at present, to have been introduced upon that occasion, was the sixth of George the second, ch. thirteen, "An act for the better securing and encouraging the trade of his majesty's sugar colonies in America."

Cost what it will, I must transcribe the first section of this statute, with all its parliamentary verbiage. I hope some of my fellow citizens of the present or some future age will ponder it.

"Whereas, the welfare and prosperity of your majesty's sugar colonies in America, are of the greatest consequence and importance, to the trade, navigation and strength of this kingdom; and whereas, the planters of the said sugar colonies have of late years, fallen under such great discouragements, that they are unable to improve or carry on the sugar trade, upon an equal footing with the foreign sugar colonies, without some advantage and relief be given to them from G. Britain: For remedy whereof, and for the good and welfare of your majesty's subjects, we your majesty's most dutiful and loyal subjects, the commons of Great Britain, assembled in parliament, have *given and granted* unto your majesty, the several and respective rates and duties hereinafter mentioned, and in such manner and form as is hereinafter expressed; and do most humbly beseech your majesty, that it may be enacted, and be it enacted by the king's most excellent majesty, by and with the consent of the lords spiritual and temporal, and commons in this present parliament assembled, and by the authority of the same, that from and after the twenty fifth day of December, one thousand seven hundred and

thirty-three, there shall be raised, levied, collected, and paid, unto and for the use of his majesty, his heirs and successors, upon all rum or spirits of the produce or manufacture of any of the colonies or plantations in America, not in the possession or under the dominion of his majesty, his heirs and successors, which at any time or times, within or during the continuance of this act, shall be imported or brought into any of the colonies or plantations in America, which now are, or hereafter may be, in the possession or under the dominion of his majesty, his heirs or successors, the sum of nine pence, money of Great Britain, to be paid according to the proportion and value of five shillings and six pence the ounce in silver, for every gallon thereof, and after that rate for any greater or lesser quantity; and upon all molasses or syrups of such foreign produce or manufacture, as aforesaid, which shall be imported or brought into any of the said colonies of or belonging to his majesty, the sum of six pence of like money for every gallon thereof, and after that rate for any greater or lesser quantity; and upon all sugars and paneles of such foreign growth, produce or manufacture as aforesaid, which shall be imported into any of the said colonies or plantations of or belonging to his majesty, a duty after the rate of five shillings of like money for every hundred weight avoirdupois of the said sugar and paneles, and after that rate for a greater or lesser quantity."

Now, sir, will you be pleased to read judge Minot's history, vol. 2d, from page 137 to 140, ending with these words: "But the strongest apprehensions arose from the publication of the orders for the strict execution of the molasses act, which is said to have caused a greater alarm in the country, than the taking of fort William Henry did in the year 1757."

This I fully believe, and certainly know to be true; for I was an eye and an ear witness to both of these alarms. Wits may laugh at our fondness for molasses, and we ought all to join in the laugh with as much good humor as general Lincoln did. General Washington, however always asserted and proved, that Virginians loved molasses as well as New Englandmen did. I know not why we should blush to confess that molasses was an essential ingredient in American independence. Many great events have proceeded from much smaller causes.

Mr. Otis demonstrated how these articles of molasses and sugar, especially the former, entered into all and every branch of our commerce, fisheries, even manufactures and agriculture. He asserted this act to be a revenue law, a taxation law, made by a foreign legislature without our consent, and by a legislature who had no feeling for us, and whose interest prompted them to tax us to the quick. Pray, Mr. Tudor, calculate the amount of these duties upon molasses and sugar. What an enormous revenue for that age! Mr. Otis made a calculation and shewed it to be more than sufficient to support all the crown officers.

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *August* 16, 1818.

DEAR SIR,

WE cannot yet dismiss this precious statute of the 6th of George 2d. chapter 13.

The second section I must abridge, for I cannot transcribe much more. It enacts, that all the duties imposed by the first section, shall be paid down in ready money by the importer, before landing.

The third section must be transcribed by me or some other person, because it is the most arbitrary among statutes, that were all arbitrary, the most unconstitutional among laws, which were all unconstitutional.

Section 3d. "And be it further enacted, that in case any of the said commodities shall be landed, or put on shore in any of his majesty's said colonies or plantations in America, out of any ship or vessel, before due entry be made thereof, at the port or place where the same shall be imported, and before the duties by this act charged or chargeable thereupon, shall be duly paid, or without a warrant for the landing and delivering the same, first signed by the collector, or impost officer, or other proper officer or officers of the custom or excise, belonging to such port or place respectively, all such goods as shall be so landed or put on shore, or the value of the same, shall be forfeited; and all and every such goods as shall be so landed or put on shore, contrary to the true intent and meaning of this act, shall, and may be seized by the governor or commander in chief, for the time being, of the colonies or plantations, where the same shall be so landed or put on shore, or any person or persons, by them authorized in that behalf, or by warrant of any Justice of the peace or other magistrate, (which warrant such justice or magistrate

is hereby empowered and required to give upon request) or by any custom house officer, impost, or excise officer, or any person or persons, him or them accompanying, aiding and assisting, and *all and every such offence and forfeitures shall, and may be prosecuted for and recovered in any court of admiralty in his majesty's colonies or plantations in America, (which court of admiralty is hereby authorized, impowered and required to proceed to hear, and finally determine the same) or in any court of record in the said colonies or plantations, where such offence is committed, at the election of the informer or prosecutor, according to the course and method used and practised there in prosecutions for offences against penal laws relating to customs or excise*; and such penalties and forfeitures so recovered there, shall be divided as follows, viz: one third part for the use of his majesty, his heirs and successors, to be applied for the support of the government of the colony or plantation, where thesame shall be recovered, one third part to the governor or commander in chief, of the said colony or plantation, and the other third part to the informer or prosecutor, who shall sue for the same."

Section five contains the penalties on persons assisting in such unlawful importation.

Section 6th. "Fifty pound penalty on molesting an officer on his duty. Officer, if sued, may plead the general issue. Fifty pound penalty, on officer conniving at such fraudulent importation."

Section 7th. "One hundred pound penalty, on master of ship, &c. permitting such importation."

Section 8th. "The *onus probandi* in suits to lie on the owners."

Section 12. "Charge of prosecution to be borne out of the king's part of seizures, forfeitures and penalties."

George 2d. was represented and believed in America to be an honest, well meaning man; and although he consented to this statute and others which he thought sanctioned by his predecessors, especially king William, yet it was reported and understood, that he had uniformly resisted the importunities of ministers, governors, planters, and projectors, to induce him to extend the system of taxation and revenue in America, by saying, that "he did not understand the colonies; he wished their prosperity. They appeared to be happy at present; and he would not consent to any innovations; the consequences of which he could not foresee."

Solomon, in all his glory, could not have said a wiser thing. If George 3d. had adopted this sentiment, what would now be the state of the world? Who can tell? or who can conjecture?

The question now was concerning the designs of a new reign, and of a young prince. This young king had now adopted the whole system of his predecessors, Stuarts, Oranges, and Hanoverians, and determined to carry it into execution, right or wrong; and that, by the most tyrannical instruments, that ever were invented; writs of assistance. What hope remained for an American, who knew, or imagined he knew, the character of the English nation, and the character of the American people? To borrow a French word, so many *reminiscences* rush upon me, that I know not which to select, and must return for the present to Mr. Otis. By what means this young inexperienced king was first tempted by his ministers, to enter with so much spirit into this

system, may be hereafter explained.

Mr. Otis analyzed this statute, 6. George 3d. c. 13, with great accuracy. His calculations may be made by any modern mathematician who will take the pains. How much molasses, for example, was then subject to this tax; suppose a million gallons, which is far less than the truth. Six pence a gallon was full one half of the value of the article. It was sold at market for one shilling; and I have known a cargo purchased at a pistareen. The duties on a million gallons, would then be twenty five thousand pounds sterling a year; a fund amply sufficient, with the duties on sugars, &c. and more than sufficient, at that time, to pay all the salaries of all the governors upon the continent, and all judges of admiralty too.

Mr. King, formerly of Massachusetts, now of New-York, in a late, luminous and masterly speech, in senate, page 18, informs us, from sure sources, that "we import annually upwards of six million gallons of West India rum." The Lord have mercy on us! "More than half of which comes from the English colonies. We also import every year, nearly seven millions of gallons of molasses; and as every gallon of molasses yields, by distillation, a gallon of rum, the rum imported, added to that distilled from molasses, is probably equal to twelve millions of gallons, which enormous quantity is chiefly consumed, besides whiskey, by citizens of the United States." Again, I devoutly pray, the Lord have mercy on us!

But calculate the revenue, at this day, from this single act of George 2d. It would be sufficient to bribe any nation, less knowing and less virtuous, than the people of America, to the voluntary

surrender of all their liberties.

Mr. Otis asserted this to be a revenue law; a taxation law; an unconstitutional law; a law subversive of every end of society and government; it was null and void. It was a violation of all the rights of nature, of the English constitution, and of all the charters and compacts with the colonies; and if carried into execution by writs of assistance, and courts of admiralty, would destroy all security of life, liberty, and property. Subjecting all these laws to the jurisdiction of judges of admiralty, poor dependent creatures; to the forms and course of the civil law, without juries, or any of the open, noble examination of witnesses, or publicity of proceedings, of the common law, was capping the climax, it was clenching the nail of American slavery.

Mr. Otis roundly asserted, that this statute, and the preceding statutes, never could be executed. The whole power of Great Britain would be ineffectual; and by a bold figure, which will now be thought exaggeration, he declared, that if the king of Great Britain in person were encamped on Boston common, at the head of twenty thousand men, with all his navy on our coast, he would not be able to execute these laws. They would be resisted or eluded.

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *August* 21, 1818.

DEAR SIR,

MR. OTIS quoted another author, "The political and commercial works of Charles D'Avenant, L.L. D. vol. 2. discourse 3 On the plantation trade." I cannot transcribe seventy six pages, but wish that Americans of all classes would read them. They are in the same strain with Downing, Child, Gee, Ashley, Charles 2, James 2, William and Mary, William 3, Ann, George 2, and George 3; all conspiring to make the people of North America hewers of wood and drawers of water, to plantation governors, custom house officers, judges of admiralty, common informers, West India planters, naval commanders, in the first place; and, after all these worthy people should be amply supported, nourished, encouraged and pampered, if any thing more could be squeezed from the hard earnings of the farmers, the merchants, the tradesmen and labourers in America, it was to be drawn into the exchequer in England, to aggrandize the British navy.

Mr. Otis proceeded to another species of statutes, relative to our internal policy, even our domestic manufactures and fireside comforts; I might say, our homespun blankets and woollen sheets, so necessary to cover some of us, if not all of us, in our slumbers in the long nights of our frozen winters. I shall refer to these statutes as they occur, without any regard to order, and shall not pretend to transcribe any of them.

"Furs of the plantations to be brought to Great Britain. 8 Geo. 1. c. 15. ss. 24."

"Hats, not to be exported from one plantation to another. 5 Geo. 2. c. 22."

"Hatters in America, not to have more than two apprentices. 5 Geo. 2. c. 22. ss. 7."

"Slitting mills, steel furnaces, &c. not to be erected in the plantations. 23 Geo. 2. c. 29. ss. 9."

"No wool, or woollen manufacture of the plantations shall be exported. 10 & 11 Wm. 3. c. 10. ss. 19."

"Exporting wool, contrary to the regulations, forfeiture of the ship, &c. 12 Geo. 2. c. 21. ss. 11."

I cannot search for any more of these mincing laws. Mr. Otis alternately laughed and raged against them all. He said one member of parliament had said, that a hobnail should not be manufactured in America; and another had moved that Americans should be compelled by act of parliament, to send their horses to England to be shod. He believed, however, that this last was a man of sense, and meant, by this admirable irony, to cast a ridicule on the whole selfish, partial, arbitrary and contracted system of parliamentary regulations in America.

Another statute there is, and was quoted by Mr. Otis, by which wool was prohibited to be water-borne in America; in consequence of which, a fleece of wool could not be conveyed in a canoe across a river or brook, without seizure and forfeiture.

But I am wearied to death by digging in this mud; with searching among this trash, chaff, rubbish of acts of parliament; of that parliament which declared it had a right to legislate for us, as sovereign, absolute and supreme, in all cases whatsoever. But I deny that they ever had any right to legislate for us, in any case whatsoever. And on this point we are and were at issue, before God and the world. These

righteous judges have decided the question; and it is melancholy that any Americans should still doubt the equity and wisdom of the decision.

Such were the bowels of compassion, such the tender mercies of our pious, virtuous, our moral and religious mother country, towards her most dutiful and affectionate children! Such they are still; and such they will be, till the United States shall compel that country to *respect* this. To this end, poor and destitute as I am, I would cheerfully contribute double my proportion of the expense of building and equipping thirty ships of the line, before the year 1820.

Mr. Otis asserted all these acts to be null and void by the law of nature, by the English constitution, and by the American charters, because America was not represented in parliament. He entered into the history of the charters. James the first and Charles the first, could not be supposed to have ever intended that parliament, more hated by them both than the pope or the French king, should share with them in the government of colonies and corporations which they had instituted by their royal prerogatives —"Tom, Dick, and Harry were not to censure them and their council." Pym, Hambden, sir Harry Vane and Oliver Cromwell did not surely wish to subject a country, which they sought as an asylum, to the arbitrary jurisdiction of a country from which they wished to fly. Charles the second had learned by dismal, doleful experience, that parliaments were not to be wholly despised. He, therefore, endeavoured to associate parliament with himself, in his navigation act, and many others of his despotic projects, even in that of destroying, by his unlimited licentiousness and debauchery, the moral character of the nation.

Charles the second courted parliament as a mistress; his successors embraced her as a wife, at least for the purpose of enslaving America.

Mr. Otis roundly asserted this whole system of parliamentary regulations, and every act of parliament before quoted, to be illegal, unconstitutional, tyrannical, null and void. Nevertheless, with all my admiration of Mr. Otis, and enthusiasm for his character, I must acknowledge he was not always consistent in drawing or admitting the necessary consequences from his principles, one of which comprehended them all, to wit, that *Parliament had no authority over America in any case whatsoever*.

But at present we must confine ourselves to his principles and authorities in opposition to the acts of trade and writs of assistance. These principles I perfectly remember. The authorities in detail I could not be supposed to retain; though with recollecting the names, Vattel, Coke and Holt, I might have found them again by a diligent search. But Mr. Otis himself has saved that trouble, by a publication of his own, which must be the subject of another letter from your humble servant,

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *August* 31, 1818.

DEAR SIR,

I HAVE before mentioned the instructions of the city of Boston to their representatives, in May 1764, printed in an appendix to Mr. Otis's "Rights of the colonies." In obedience to those instructions, or at least in consequence of them Mr. Otis prepared a memorial to the house of representatives, which was by them voted to be transmitted to Jasper Mauduit, Esq. agent for the province, only as a statement drawn up by one of the house, to be improved as he may judge proper.

In this memorial Mr. Otis has preserved and immortalized his own arguments and authorities to prove the acts of trade null and void, which he had advanced and produced three years before in his oration against those acts and their formidable instrument, writs of assistance. This is a fortunate circumstance for me, because it relieves me from the trouble of recollection, and the more painful task of research in old books.

"The public transactions", says Mr. Otis, "from William the first, to the revolution, may be considered as one continued struggle, between the prince and the people, all tending to that happy establishment, which Great Britain has since enjoyed.

"The absolute rights of Englishmen, as frequently declared in parliament, from Magna Charta, to this time, are the rights of personal security, personal liberty and of private property.

"The allegiance of British subjects being natural, perpetual and inseparable from their persons, let them be in what country they may; their rights are also natural, inherent and perpetual.

"By the laws of nature and of nations; by the voice of universal reason, and of God, when a nation takes possession of a desart, uncultivated, uninhabited country, or purchases of savages, as was the case with far the greatest part of the British settlements; the colonists transplanting themselves and their posterity, though separated from the principal establishment, or mother country, naturally become part of the state with its ancient possessions, and entitled to all the essential rights of the mother country. This is not only confirmed by the practice of the ancients, but by the moderns ever since the discovery of America. Frenchmen, Spaniards, and Portuguese are no greater slaves abroad than at home; and hitherto Britons have been as free on one side of the Atlantic as on the other: and it is humbly hoped that his majesty and the parliament will in their wisdom be graciously pleased to continue the colonies in this happy state."

"It is presumed, that upon these principles, the colonists have been by their several charters declared natural subjects, and entrusted with the power of making their own local laws, not repugnant to the laws of England, and with the power of taxing themselves."

"This legislative power is subject to the same charter to the king's negative as in Ireland. This effectually secures the dependence of the colonies on Great Britain. By the 13th of George 2. ch. 9. even foreigners having lived seven years in any of the colonies are deemed natives on taking the oaths of allegiance, &c. and are declared by the said act to be his majesty's natural born subjects of the kingdoms of Great Britain, to all intents, constructions and

purposes, as if any of them had been born within the kingdom. The reasons given for this naturalization in the preamble of the act are, that the increase of the people is the means of advancing the wealth of any nation or country. And many foreigners and strangers, from the lenity of our government, the purity of our religion, the benefit of our laws, the advantages of our trade, and the security of our property, might be induced to come and settle in some of his majesty's colonies in America, if they were partakers of the advantages and privileges, which the native born subjects there enjoy.

"The several acts of parliament and charters, declaratory of the rights and liberties of the colonies, are but in affirmance of the common law and law of nature in this point. There are, says my lord Coke, regularly three incidents to subjects born; 1. Parents under the actual obedience of the king; 2. That the place of his birth be within the king's dominions; 3. The time of his birth to be chiefly considered.

"For he cannot be a subject born of one kingdom, that was born under the allegiance of a king of another kingdom. See Calvin's case and the several acts and decisions on naturalization, from Edward the third to this day. The common law is received and practised upon here and in the rest of the colonies; and all ancient and modern acts of parliament, that can be considered as part of or in amendment of the common law, together with such acts of parliament, as expressly name the plantations, so that the power of the British parliament is held sacred and as uncontroulable in the colonies, as in England. The question is not upon the general power or right of the parliament; but whether it is not circumscribed within some equitable and reasonable

bounds? It is hoped it will not be considered as a new doctrine, that even the authority of the parliament of Great Britain is circumscribed by certain bounds, which, if exceeded, their acts become those of mere power without right, and consequently void. The judges of England have declared in favour of these sentiments, when they expressly declare, that acts of parliament against natural equity are void. That acts against the fundamental principles of the British constitution are void. A very important question here presents itself. It essentially belongs to the society, both in relation to the manner, in which it desires to be governed, and to the conduct of the citizens. This is called the legislative power.—The nation may entrust the exercise of it to the prince or to an assembly; or to an assembly and the prince jointly; who have then a right of making new and abrogating old laws. It is here demanded whether, if their power extends so far, as to the fundamental laws, they may change the constitution of the state? The principles we have laid down lead us to decide this point with certainty, that the authority of these legislators does not extend so far, and that they ought to consider the fundamental laws as sacred, if the nation has not in very express terms given them the power to change them. For the constitution of the state ought to be fixed; and since that was first established by the nation, which afterwards trusted certain persons with the legislative power, the fundamental laws are excepted from their commission. It appears that the society had only resolved to make provision for the state's being always furnished with laws, suited to particular conjunctures, and gave the legislature for that purpose, the power of abrogating the ancient civil and political laws, that were not fundamental, and of

making new ones. But nothing leads us to think that it was willing to submit the constitution itself to their pleasure.

"When a nation takes possession of a distant country and settles a colony there, that country though separated from the principle establishment or mother country, naturally becomes a part of the state equally with its ancient possessions. Whenever the political laws or treaties make no distinction between them every thing said of the territory of a nation ought also to extend to its colonies. An act of parliament made against natural equity, as to make a man judge in his own cause, would be void, Hob. 87. Trin. 12. Jac. Day *v.* Savage, S. C. & P. cited Arg. 10. Mod. 115. Hill 11. Ann C. B. in case of Thornby & Fleetwood, "but says that this must be a clear case, and judges will strain hard rather than interpret an act void, *ab initio*." This is granted, but still their authority is not boundless, if subject to the controul of the judges in any case. Holt, chief justice, thought what lord Coke says in Dr. Bonham's case a very reasonable and true saying, that if an act of parliament should ordain the same person both party and judge, in his own case, it would be a void act of parliament, and an act of parliament can do no wrong, though it may do several things that look pretty odd; for it may discharge one from the allegiance he lives under, and restore to the state of nature, but it cannot make one that lives under a government both party and judge, per Holt C. J. 12 Mod. 687. 688. Hill 13. W. 3. B. R. in the case of the city of London *v.* Wood. It appears in our books, that in several cases, the common law should controul acts of parliament, and sometimes adjudge them to be utterly void; for when an act of parliament against common right and reason, or repugnant and

impossible to be performed, the common law shall controul it, and adjudge it to be void, and therefore, 8 E. 3., 30. Thomas Tregor's case upon the statute of W. 2. cap. 38. and Art. Chart. 9. Herle said that sometimes statutes are made contrary to law and right, which the maker of them perceiving will not put them into execution. This doctrine is agreeable to the law of nature and nations. and to the divine dictates of natural and revealed religion. It is contrary to reason that the supreme power should have a right to alter the constitution. This would imply that those who are intrusted with sovereignty by the people, have a right to do as they please. In other words, that those, who are invested with power to protect the people and support their rights and liberties, have a right to make slaves of them. This is not very remote from a flat contradiction. Should the parliament of Great Britain follow the example of some other foreign states, Sweden, Denmark, France, &c. and vote the king absolute and despotic; would such an act of parliament make him so? Would any minister in his senses advise a prince to accept of such an offer of power? It would be unsafe to accept of such a donation because the parliament or donors would grant more than it was in their power lawfully to give, the law of nature never invested them with a power of surrendering their own liberty, and the people certainly never intrusted any body of men with a power to surrender theirs in exchange for slavery. But if the whole state be conquered if the nation be subdued, in what manner can a victor treat it without transgressing the bounds of justice? What are his rights over the conquest? Some have dared to advance this monstrous principle, that the conqueror is absolute master over this conquest, that he may dispose of it as his property, treat it as he pleases,

according to the common expression of treating a state as a conquered country, and hence they derive one of the sources of despotic government.—But enough of those that reduce men to the state of transferable goods, or use them like beasts of burden, who deliver them up as the property or patrimony of another man. Let us argue upon principles countenanced by reason, and becoming humanity. The whole right of the conqueror proceeds from the just defence of himself, which contains the support and prosecution of his rights. Thus when he has totally subdued a nation with whom he had been at war, he may without dispute cause justice to be done him, with regard to what gave rise to the war, and require payment for the expense and damage he has sustained; he may, according to the exigency of the place, impose penalties on it as an example; he may, should prudence so dictate, disable it from undertaking any pernicious design for the future. But in securing all these views the mildest means are to be preferred. We are always to remember, that the law of nature permits no injury to be done to an enemy, unless in taking measures necessary for a just defence and a reasonable security. Some princes have only imposed a tribute on it; others have been satisfied in stripping it of some of its privileges, dismembering it of a province, or keeping it in awe by fortresses; others, as their quarrel was only with the sovereign in person, have left a nation in the full enjoyment of its rights, only setting a sovereign over it. But if the conqueror thinks proper to retain the sovereignty of the vanquished state, and has such a right; the manner in which he is to treat the state still flows from the same principles. If the sovereign be only the just object of his complaint, reason declares, that by his conquest he acquires only such

rights as actually belonged to the dethroned sovereign; and on the submission of his people he is to govern it according to the laws of the state. If the people do not voluntarily submit, the state of war subsists. When a sovereign, as pretending to have the absolute disposal of a people whom he has conquered, is for enslaving them, he causes the state of war to subsist between this people and him. M. De Vattel, B. 3. c. 10. sec. 201.

"It is now near three hundred years since the continent of North America was first discovered, and that by British subjects; the Cabots discovered the continent before the Spaniards. Ten generations have passed away, through infinite toils and bloody conflicts, in settling this country. None of those ever dreamed, but that they were entitled at least to equal privileges with those of the same rank born within the realm.

"British America has been hitherto distinguished from the slavish colonies round about it, as the fortunate Britons have been from most of their neighbours on the continent of Europe. It is for the interest of Great-Britain that her Colonies be ever thus distinguished. Every man must wilfully blind himself that does not see the immense value of our acquisitions in the late war; and that though we did not retain all at the conclusion of peace, that we obtained by the sword, yet our gracious sovereign, at the same time that he has given a divine lesson of equitable moderation to the princes of the earth, has retained sufficient to make the British arms the dread of the universe, and his name dear to all posterity.

"To the freedom of the British constitution, and to their increase of commerce, it is owing, that our

colonies have flourished without diminishing the inhabitants of our mother country, quite contrary to the effects of plantations, made by most other nations which have suffered at home, in order to aggrandize themselves abroad. This is remarkably the case of Spain. The subjects of a free and happy constitution of government, have a thousand advantages to colonize above those who live under despotic princes.

"We see how the British colonies on the continent have outgrown those of the French; notwithstanding, they have ever engaged the savages to keep us back. Their advantages over us in the West Indies, are, 1st. A capital neglect in former reigns, in suffering them to have a firm possession of so many valuable islands, that we had a better title to than they. 2. The French, unable to push their settlements effectually on the continent, have bent their views to islands, and poured vast numbers into them. 3. The climate and business of these islands is by nature much better adapted to Frenchmen and to Negroes, than to Britons. 4. The labour of slaves, black or white, will be ever cheaper than that of freemen, because that of individuals among the former, will never be worth so much as with the latter; but this difference is more than supplied, by numbers under the advantages above mentioned. The French will ever be able to sell their West India produce cheaper, than our own islanders; and yet, while our own islanders can have such a price for theirs, as to grow much richer than the French, or any other of the king's subjects in America, as is the case; and what the northern colonies take from the French, and other foreign islands, centers finally in return to Great Britain for her manufactures, to an immense value, and with a vast profit to her. It is contrary to the first principles

of policy to cloy such a trade with duties; much more to prohibit it, to the risque, if not certain destruction of the fishery.

"It is allowed by the most accurate British writers on commerce, Mr. Postlethwait in particular, who seems to favour the cause of the sugar islands, that one half of the immense commerce of Great Britain is with her colonies. It is very certain, that without the fishery, seven eighths of this commerce would cease. The fishery is the centre of motion, upon which the wheel of all the British commerce in America turns. Without the American trade, would Britain, as a commercial state, make any great figure at this day in Europe?

"Her trade in woollen and other manufactures is said to be lessening, in all parts of the world, but America, where it is increasing, and capable of infinite increase, from a concurrence of every circumstance in its favour. Here is an extensive territory of different climates, which, in time, will consume, and be able to pay for as much manufactures as Great Britain and Ireland can make, if true maxims are pursued. The French, for reasons already mentioned, can underwork, and consequently undersell the English manufactures of Great Britain, in every market in Europe. But they can send none of their manufactures here; and it is the wish of every honest British American, that they never may; it is best they never should. We can do better without the manufactures of Europe, save those of Great Britain, than with them. But without the West India produce we cannot; without it our fishery must infallibly be ruined. When that is gone, our own islands will very poorly subsist. No British manufactures can be paid for by the colonists. What

will follow? One of these two things, both of which it is the interest of Great Britain to prevent. 1st. The northern colonists must be content to go naked, and turn savages. Or 2d. become manufacturers of linnens and woollens, to clothe themselves; which, if they cannot carry to the perfection of Europe, will be very destructive to the interests of Great Britain. The computation has been made, and that within bounds; and it can be demonstrated, that if North America is only driven to the fatal necessity of manufacturing a suit of the most ordinary linnen or woollen, for each inhabitant, annually, which may be soon done, when necessity, the mother of invention shall operate, Great Britain and Ireland will lose two millions per annum, besides a diminution of the revenue to nearly the same amount. This may appear paradoxical; but a few years experience of the execution of the sugar act, will sufficiently convince the parliament, not only of the inutility, but destructive tendency of it, while calculations may be little attended to. That the trade with the colonies has been of a surprising advantage to Great Britain, notwithstanding the want of a good regulation, is past all doubt. Great Britain is well known to have increased prodigiously, both in numbers and in wealth, since she began to colonize. To the growth of the plantations, Britain is, in a great measure, indebted for her present riches and strength. As the wild wastes of America have been turned into pleasant habitations and flourishing trading towns; so many of the little villages and obscure boroughs in Great Britain, have put on a new face, and all suddenly started up and become fair markets and manufacturing towns, and opulent cities. London itself, which bids fair to be the metropolis of the world, is five times more populous than it was in the days of queen Elizabeth. Such are

the fruits of the spirit of commerce and liberty. Hence it is manifested how much we all owe to that beautiful form of civil government, under which we have the happiness to live.

"It is evidently the interest, and ought to be the care of all those entrusted with the administration of government, to see that every part of the British empire enjoys to the full, the rights they are entitled to by the laws, and the advantages which result from their being maintained with impartiality and vigour. This we have seen reduced to practice in the present and preceding reigns; and have the highest reason, from the paternal care and goodness that his majesty, and the British parliament, have hitherto been graciously pleased to discover to all his majesty's dutiful and loyal subjects, and to the colonists in particular, to rest satisfied, that our privileges will remain sacred and inviolate. The connection between Great Britain and her colonies is so natural and strong, as to make their mutual happiness depend upon their mutual support. Nothing can tend more to the destruction of both, and to forward the measures of their enemies, than sowing the seeds of jealousy, animosity, and dissention, between the mother country and the colonies.

"A conviction of the truth and importance of these principles, induced Great Britain, during the late war, to carry on so many glorious enterprises for the defence of the colonies; and those on their part to exert themselves beyond their ability to pay, as is evident, from the parliamentary reimbursements.

"If the spirit of commerce was attended to, perhaps duties would be every where decreased, if not annihilated, and prohibitions multiplied. Every

branch of trade, that hurts a community, should be prohibited for the same reason, that a private gentleman would break off commerce with a sharper, or an extensive usurer. It is to no purpose to higgle with such people; you are sure to loose by them. It is exactly so with a nation, if the balance is against them; and they can possibly subsist without the commodities as they generally can in such cases, a prohibition is the only remedy; for a duty in such a case, is like a composition with a thief, that for five shillings in the pound returned, he shall rob you at pleasure; when, if the thing is examined to the bottom, you are at five shillings expense in travelling to get back your five shillings; and he is at the same expense in coming to pay it. So he robs you of but ten shillings in the pound, that you thus wisely compound for. To apply this to trade, I believe every duty, that was ever imposed on commerce, or in the nature of things can be, will be found to be divided between the state imposing the duty, and the country exported from. This, if between the several parts of the same kingdom or dominions of the same prince, can only tend to embarrass trade, and raise the price of labour above other states, which is of very pernicious consequence to the husbandman, manufacturer, mariner and merchant, the four tribes that support the whole hive. If your duty is upon a commodity of a foreign state, it is either upon the whole useful and gainful; and therefore necessary for the husbandman, manufacturer, mariner or merchant, as finally bringing a profit to the state, by a balance against your state. There is no medium that we know of. If the commodity is of the former kind, it should be prohibited; but if the latter, imported duty free, unless you would raise the price of labour by a duty on necessaries, or make the

above wise composition for the importation of commodities, you are sure to lose by it.

"The only test of a useful commodity is the gain upon the whole to the state; such should be free; the only test of a pernicious trade is the loss upon the whole or to the community; this should be prohibited. If therefore it can be demonstrated, that the sugar and molasses trade from the northern colonies to the foreign plantations, is, upon the whole, a loss to the community, by which term is here meant, the three kingdoms and the British dominions taken collectively, then, and not till then, should this trade be prohibited. This never has been proved, nor can be; the contrary being certain, to wit: that the nation upon the whole hath been a vast gainer by this trade, in the vend of and pay for its manufactures; and a great loss by a study upon this trade will finally fall on the British husbandman, manufacturer, mariner and merchant; and consequently the trade of the nation be wounded, and in constant danger of being eat out by those who can undersell her.

"The art of underselling, or rather of finding means to undersell, is the grand secret of thrift among commercial states, as well as among individuals of the same state. Should the British sugar islands ever be able to supply Great Britain, and her northern colonies with those articles, it will be time enough to think of a total prohibition; but until that time, both prohibition and duty will be found to be diametrically opposite to the first principles of policy. Such is the extent of this continent, and the increase of its inhabitants, that if every inch of the British sugar islands was as well cultivated as any part of Jamaica or Barbadoes, they would not now be able to supply Great Britain, and the colonies on

this continent. But before such further improvements can be supposed to take place in our islands, the demands will be proportionably increased by the increase of the inhabitants on the continent. Hence the reason is plain, why the British sugar planters are growing rich, and demands on them, ever will be greater than they can possibly supply, so long as the English hold this continent, and are unrivalled in the fishery.

"We have every thing good and great to hope from our gracious sovereign, his ministry and his parliament; and trust, that when the services and sufferings of the British American colonies are fully known to the mother country, and the nature and importance of the plantation trade more perfectly understood at home, that the most effectual measures will be taken for perpetuating the British empire in all parts of the world. An empire built upon the principles of justice, moderation and equity, the only principles that can make a state flourishing, and enable it to elude the machinations of its secret and inveterate enemies."

Excuse errors, for I cannot revise and correct. I hope your patience will never be put to the trial of another letter so long and dry. One or two more, much shorter, will close the subject of writs of assistance, and relieve you from *ennui*, as well as your friend,

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *September* 10, 1818.

DEAR SIR,

THE charters were quoted or alluded to by Mr. Otis frequently in the whole course of his argument: but he made them also a more destined and more solemn head of his discourse. And here, these charters ought to be copied verbatim. But an immense verbiage renders it impossible. Bishop Butler somewhere complains of this enormous abuse of words in public transactions, and John Reed and Theophilus Parsons of Massachusetts have attempted to reform it. So did James Otis; all with little success. I hope, however, that their examples will be followed, and that common sense in common language will, in time, become fashionable. But the hope must be faint as long as clerks are paid by the line and the number of syllables in a line.

Some passages of these charters must however, be quoted; and I will endeavour to strip them as well as I can, of their useless words. They are recited in the charter of king William and queen Mary, dated the seventh day of October, in the third year of their reign, *i. e.* in 1691.

"Whereas king James the first, in the 18th year of his reign, did grant to the council at Plymouth, for the planting and governing New England, all that part of America, from the 40th to the 48th degree of latitude, and from sea to sea, together with all sands,

waters, fishings, and all and singular other commodities, *jurisdictions*, royalties, privileges, franchises and pre-eminences, both within the said tract of land upon the main, and also within the islands and seas adjoining: to have and hold, all, unto the said council, their heirs and successors and assigns forever: to be holden of his said majesty as of his manor of East Greenwich, in free and common socage, and not in capite, or by knights' service.—Yielding to the king a fifth part of the ore of gold and silver. *For and in respect of all and all manner of duties, demands and services whatsoever.*"

But I cannot pursue to the end this infinite series of words.—You must read the charter again. For although you and I have read it fifty times, I believe you will find it, as I do, much stronger in favour of Mr. Otis's argument than I expected or you will expect. I doubt whether you will take the pains to read it again; but your son will, and to him I recommend it.

The council of Plymouth, on the 19th of March, in the 3d year of the reign of Charles the first, granted to sir Henry Roswell and others, part of New England by certain boundaries, with all the prerogatives and privileges.

King Charles the first, on the 4th of March, in the fourth year of his reign confirmed to sir Henry Roswell and others, all those lands before granted to them by the council of Plymouth. King Charles the first, created sir Henry Roswell and others, a body corporate and politick. And said body politick, did settle a colony which became very populous.

In 1684, in the 36th year of king William and queen Mary's *dearest uncle,* Charles the second, a judgment

was given in the court of chancery, that the letters patent of Charles the first, should be cancelled, vacated and annihilated.

The agents petitioned to be re-incorporated; I can easily conceive their perplexity, their timidity, their uncertainty, their choice of difficulties, their necessary preference of the least of a multitude of evils: for I have felt them all, as keenly as they did.

William and Mary unite Massachusetts, New Plymouth, the Province of Maine and Nova Scotia, into one province, to be holden in fee of the manor of East Greenwich, paying one fifth of gold and silver ore.

Liberty of conscience to be granted to all Christians, except papists. Good God! A grant from a king of liberty of conscience. Is it not a grant of the King of Kings, which no puppet or royalist upon earth can give or take away?

The general court impowered to erect judicatories and courts of record. The general court impowered to make laws, "*not repugnant to the laws of England*." Here was an unfathomable gulf of controversy. The grant itself, *of liberty of conscience*, was repugnant to the laws of England. Every thing was repugnant to the laws of England. The whole system of colonization was beyond the limits of the laws of England, and beyond the jurisdiction of their national legislature. The general court is authorized to impose fines, &c. and taxes.

But the fell paragraph of all, is the proviso in these words:—"Provided always, and it is hereby declared that nothing herein shall extend or be taken to erect or grant, or allow the exercise of any admiralty court

jurisdiction, power, or authority, but that the same shall be, and is hereby reserved to us and our successors, and shall from time to time, be erected, granted and exercised by virtue of commissions to be issued under the great seal of England, or under the seal of the high admiral, or the commissioners for executing the office of high admiral of England."

The history of this court of admiralty would require volumes. Where are its records and its files? Its libels and answers? Its interrogatories and cross interrogatories? All hurried away to England, as I suppose never to be seen again in America, nor probably to be inspected in Europe.

The records and files of the court of probate in Boston were transported to Halifax. Judge Foster Hutchinson had the honour to return them after the peace of 1783. But admiralty records have never been restored as I have heard.

The subject may be pursued hereafter by your servant,

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, September 13, 1818.

DEAR SIR,

IT is some consolation to find in the paragraph of the charter, next following the court of admiralty, that

nothing in it "shall in any manner enure, or be taken to abridge, bar, or hinder any of our loving subjects whatsoever, to use and exercise the trade of fishing upon the coasts of New England, but that they and every of them shall have full and free power and liberty to continue and use their said trade of fishing upon the said coast, in any of the seas thereunto adjoining, or any arms of the said seas, or salt water rivers, where they have been wont to fish; and to build and sett, upon the lands within our said province or colony, lying waste, and not then possessed by particular proprietors, such wharfs, stages, and work-houses, as shall be necessary for the salting, drying, keeping and packing of their fish, to be taken and gotten upon that coast; and to cut down and take such trees and other materials there growing or being upon any parts or places lying waste, and not then in possession of particular proprietors, as shall be needful for that purpose, and for all other necessary easments, helps and advantages, concerning the trade of fishing there, in such manner and form, as they have been heretofore at any time accustomed to do, without making any willful waste or spoil, any thing in these presents to the contrary notwithstanding."

Fellow citizens! Recollect that "This our province or colony" contained the whole of Nova Scotia as well as the "Province of Maine, Massachusetts bay and New Plymouth." Will you ever surrender one particle, one iota of this sacred charter right, and still more sacred right of nature, purchase, acquisition, possession, usage, habit and conquest? Let the thunder of British cannon say what it will, I know you will not. I know you cannot. And if you could be base enough to surrender it, which I know you cannot and never will be, your sons will reclaim it,

and redemand it, at the price of whatever blood or treasure it may cost, and will obtain it, secure it, and command it, forever. This pretended *grant* is but an acknowledgment of your antecedent right by nature, and by English liberty. You have no power or authority to alienate it. It was granted, or rather acknowledged to your successors and posterity as well as to you, and any cessions you could make would be null and void in the sight of God and all reasonable men.

Mr. Otis descanted largely on these charters. His observations carried irresistible conviction to the minds and hearts of many others as well as to mine, that every one of those statutes from the navigation act, to the last act of trade, was a violation of all the charters and compacts between the two countries, was a fundamental invasion of our essential rights, and was consequently null and void; that the legislatures of the colonies, and especially of Massachusetts, had the sole and exclusive authority of legislation and especially of taxation in America.

The indecision and inconsistency which appear in some of Mr. Otis's subsequent writings is greatly to be regretted and lamented. They resemble those of colonel Bland, as represented by Mr. Wirt. I wish I had Col. Bland's pamphlet, that I might compare it with some of Mr. Otis's.

I have too many daily proofs of the infirmity of my memory to pretend to recollect Mr. Otis's reasoning in detail. If, indeed, I had a general recollection of any of his positions, I could not express them in that close, concise, nervous and energetic language, which was peculiar to him, and which I never possessed.

I must leave you, sir, to make your own observations and reflections upon these charters. But you may indulge me in throwing out a few hints, rather as queries or topicks of speculation, than as positive opinions. And here, though I see a wide field, I must make it narrow.

1. Mr. Bollan was a kind of learned man, and of indefatigable research, and a faithful friend to America; though he lost all his influence when his father-in-law governor and general Shirley went out of circulation. This Mr. Bollan, printed a book very early on the "rights of the colonies." I scarcely ever knew a book so deeply despised. The English reviews would not allow it to be the production of a rational creature. In America itself it was held in no esteem. Otis himself, expressed in the house of representatives, in a public speech, his contempt of it in these words: "Mr. Bollan's book is the strangest thing I ever read; under the title of 'Rights of Colonies,' he has employed one third of his work to prove that the world is round; and another, that it turns round; and the last, that the pope was a devil for pretending to give it to whom he pleased."

All this I regretted. I wished that Bollan had not only been permitted, but encouraged to proceed. There was no doubt he would have produced much in illustration of the ecclesiastical and political superstition and despotism of the ages when colonization commenced and proceeded. But Bollan was discouraged and ceased from his labours.

What is the idea, Mr. Tudor, of British allegiance? And of European allegiance? Can you, or rather will you analize it? At present, I have demands upon me, which compel me to close abruptly, with the usual

regard of your friend,

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *September* 18, 1818.

DEAR SIR,

THE English doctrine of allegiance is so mysterious, fabulous and enigmatical, that it is difficult to decompose the elements of which it is compounded. The priests, under the Hebrew economy, especially the sovereign pontiffs, were anointed with consecrated oil, which was poured upon their heads in such profusion, that it ran down their beards, and they were thence called "the Lord's anointed." When kings were permitted to be introduced, they were anointed in the same manner by the sovereign pontiff; and they too were called "the Lord's anointed." When the pontiffs of Rome assumed the customs, pomps and ceremonies of the Jewish priesthood, they assumed the power of consecrating things, by the same ceremony of "holy oil." The pope, who, as vicar of God, possessed the whole globe of earth in supreme dominion and absolute property, possessed also the power of sending the holy ghost wherever he pleased. To France it pleased his holiness to send him in a phial of oil; to Rheims in the beak of a dove. I have not heard, that my friend, Louis 18th. has been consecrated at Rheims by the pouring on of this holy oil; but his worthy elder

brother, Louis 16th. was so consecrated at a vast expense of treasure and ridicule. How the holy bottle was conveyed to England, is worth inquiry. But there it is, and is used at every coronation; and is demurely, if not devoutly shewn to every traveller who visits the tower. These ideas were once as firmly established in England, as they were in Rome; and no small quantity of the *relicks* of them remain to this day. Hence the doctrines of the divine right of kings, and the duties in subjects of unlimited submission, passive obedience and non-resistance, on pain (Oh, how can I write it) of eternal damnation. These doctrines have been openly and boldly asserted and defended, since my memory, in the town of Boston, and in the town of Quincy, by persons of no small consideration in the world, whom I could name, but I will not, because their posterity are much softened from this severity.

This indelible character of sovereignty in kings, and obedience in subjects, still remains. The rights and duties are inherent, unalienable, indefeasible, indestructible and immortal. Hence the right of a lieutenant or midshipman of a British man of war, to search all American ships, impress every seaman his judgeship shall decree by law, and in fact to be a subject of his king, and compel him to fight, though it may be against his father, brother or son. My countrymen! will you submit to these miserable remnants of priestcraft and despotism?

There is no principle of law or government, that has been more deliberately or more solemnly adjudged in Great Britain, than that allegiance is not due to the king in his official capacity or political capacity, but merely to his personal capacity. Allegiance to parliament is no where found in English, Scottish or

British laws. What, then, had our ancestors to do with parliament? Nothing more than with the Jewish Sanhedrim, or Napoleon's literary and scientific Institute at Grand Cairo. They owed no allegiance to parliament as a whole, or in part. None to the house of lords, as a branch of the legislature, nor to any individual peer or number of individuals. None to the house of commons, as another branch, nor to any individual commoner or group of commoners. They owed no allegiance to the nation, any more than the nation owed to them; and they had as good and clear a right to make laws for England, as the people of England had to make laws for them.

What right, then, had king James 1st. to the sovereignty, dominion, or property of North America? No more than king George 3d. has to the Georgium Sidus, because Mr. Herschell discovered that planet in his reign. His only colour, pretension or pretext is this. The pope, as head of the church, was sovereign of the world. Henry 8th. deposed him, became head of the church in England; and consequently became sovereign master and proprietor of as much of the globe as he could grasp. A group of his nobles hungered for immense landed estates in America, and obtained from his *quasi holiness* a large tract. But it was useless and unprofitable to them. They must have planters and settlers. The sincere and conscientious protestants had been driven from England into Holland, Germany, Switzerland, &c. by the terrors of stocks, pillories, croppings, scourges, imprisonments, roastings and burnings, under Henry 8th. Elizabeth, Mary, James 1st. and Charles 1st. The noblemen and gentlemen of the council of Plymouth wanted settlers for their lands in America, and set on foot a negotiation with the persecuted fugitive religionists

abroad, promised them liberty of conscience, exemption from all jurisdiction, ecclesiastical, civil and political, except allegiance to the king, and the tribute, moderate surely, of one fifth of gold and silver ore. This charter was procured by the council at Plymouth, and displayed off as a lure to the persecuted, fugitive Englishmen abroad; and they were completely taken into the snare, as Charles 2d. convinced them in the first year of his actual, and the twelfth of his imaginary reign. Sir Josiah Child, enemy as he was, has stated, in the paragraphs quoted from him in a former letter fairly and candidly the substance of these facts.

Our ancestors had been so long abroad, that they had acquired comfortable establishments, especially in Holland, that singular region of toleration, that glorious asylum for persecuted Hugunots and Puritans; that country where priests have been enternally worrying one another; and alternately teazing the government to persecute their antagonists, but where enlightened statesmen have constantly and intrepidly resisted their wild fanaticism.

The first charter, the charter of James 1st. is more like a treaty between independent sovereigns, than like a charter of grant of privileges from a sovereign to his subjects. Our ancestors were tempted by the prospect and promise of a government of their own, independent in religion, government, commerce, manufactures, and every thing else, excepting one or two articles of trifling importance.

Independence of English church and state, was the fundamental principle of the first colonization, has been its general principle for two hundred years, and

now I hope is past dispute.

Who then was the author, inventor, discoverer of independence? The only true answer must be the first emigrants; and the proof of it is the charter of James 1st. When we say, that Otis, Adams, Mayhew, Henry, Lee, Jefferson, &c. were authors of independence, we ought to say they were only awakeners and revivers of the original fundamental principle of colonization.

I hope soon to relieve you from the trouble of this tedious correspondence with your humble servant,

JOHN ADAMS.

TO THE HON. WM. TUDOR.

Quincy, *September* 23, 1818.

DEAR SIR,

IF, in our search of principles, we have not been able to investigate any moral, philosophical or rational foundation for any claim of dominion or property in America, in the English nation, their parliament or even of their king; if the whole appears a mere usurpation of fiction, fancy and superstition; what was the right to dominion or property in the native Indians?

Shall we say, that a few handfulls of scattering tribes of savages have a right to dominion and property over a quarter of the globe, capable of nourishing

hundreds of happy human beings? Why had not Europeans a right to come and hunt and fish with them?

The Indians had a right to life, liberty and property in common with all men; but what right to dominion or property beyond these? Every Indian had a right to his wigwam, his armour, his utensils; when he had burned the woods about him, and planted his corn and beans, his squashes and pompions, all these were his undoubted right: but will you infer from this, that he had right of exclusive dominion and property, over immense regions of uncultivated wilderness, that he never saw, that he might have the exclusive privilege of hunting and fishing in them, which he himself never expected or hoped to enjoy?

These reflections appear to have occurred to our ancestors; and their general conduct was regulated by them. They do not seem to have had any confidence in their charter, as conveying any right, except against the king, who signed it. They considered the right to be in the native Indians. And in truth all the right there was in the case, lay there. They accordingly respected the Indian wigwams and poor plantations; their clambanks and musclebanks and oysterbanks, and all their property.

Property in land, antecedent to civil society, or the social compact, seems to have been confined to actual possession and power of commanding it. It is the creature of convention; of social laws and artificial order. Our ancestors, however, did not amuse themselves, nor puzzle themselves with these refinements. They considered the Indians as having rights; and they entered into negotiations with them, purchased and paid for their rights and claims,

whatever they were, and procured deeds, grants, and quit claims of all their lands, leaving them their habitations, arms, utensils, fishings, huntings and plantations. There is scarcely a litigation at law concerning a title to land, that may not be traced to an Indian deed. I have in my possession, somewhere, a parchment copy of a deed of Massasoit of the township of Braintree, incorporated by the legislature in one thousand six hundred and thirty nine. And this was the general practice through the country, and has been to this day through the continent. In short, I see not how the Indians could have been treated with more equity or humanity, than they have been in general in North America. The histories of Indian wars have not been sufficiently regarded.

When Mr. Hutchinson's history of Massachusetts bay first appeared, one of the most common criticisms upon it, was the slight, cold and unfeeling manner in which he passed over the Indian wars. I have heard gentlemen the best informed in the history of the country, say, "he had no sympathy for the sufferings of his ancestors," "otherwise he could not have winked out of sight, one of the most important, most affecting, afflicting and distressing branches of the history of his country."

There is somewhere in existence, as I hope and believe, a manuscript history of Indian wars, written by the Rev. Samuel Niles of Braintree. Almost sixty years ago, I was an humble acquaintance of this venerable clergyman, then, as I believe more than four score years of age. He asked me many questions, and informed me, in his own house, that he was endeavouring to recollect and commit to writing an history of Indian wars, in his own time, and before it,

as far as he could collect information. This history he completed and prepared for the press: but no printer would undertake it, or venture to propose a subscription for its publication. Since my return from Europe, I enquired of his oldest son, the Hon. Samuel Niles of Braintree, on a visit he made me at my own house, what was become of that manuscript? He laughed, and said it was still safe in the till of a certain trunk; but no encouragement had ever appeared for its publication. Ye liberal christians! Laugh not at me, nor frown upon me, for thus reviving the memory of your once formidable enemy. I was then no more of a disciple of his theological science than ye are now. But I then revered and still revere the honest, virtuous and pious man. *Fas est et ab hoste doceri.* And his memorial of facts might be of great value to this country.

What infinite pains have been taken and expenses incurred in treaties, presents, stipulated sums of money, instruments of agriculture, education? What dangerous and unwearied labours to convert the poor ignorant savages to christianity? And alas! with how little success? The Indians are as bigotted to their religion as the Mahometans are to their Koran, the Hindoos to their Shaster, the Chinese to Confucius, the Romans to their Saints and Angels, or the Jews to Moses and the Prophets. It is a principle of religion, at bottom, which inspires the Indians with such an invincible aversion both to civilization and Christianity. The same principle has excited their perpetual hostilities against the colonists and the independent Americans.

If the English nation, their parliaments and all their kings have appeared to be totally ignorant of all these things, or at least to have vouchsafed no

consideration upon them; if we, good patriotic Americans have forgotten them, Mr. Otis had not. He enlarged on the merit of our ancestors in undertaking so perilous, arduous, and almost desperate an enterprize, in disforresting bare creation; in conciliating and necessarily contending with Indian natives; in purchasing rather than conquering a quarter of the globe at their own expense, at the sweat of their own brows; at the hazard and sacrifice of their own lives; without the smallest aid, assistance or comfort from the government of England, or from England itself as a nation. On the contrary, constant jealousy, envy, intrigue against their charter, their religion and all their privileges. Laud, the pious tyrant dreaded them, as he foresaw they would overthrow his religion.

Mr. Otis reproached the nation, parliaments and kings with injustice, ungenerosity, ingratitude, cruelty and perfidy in all their conduct towards this country, in a style of oratory that I never heard equalled in this or any other country.

JOHN ADAMS.

FOOTNOTES

[1] One of the Regiments then in Boston.—*Note by the Publishers.*

[2] *Salus populi*, was the motto of one of his essays.

[3] Waller, on the death of Cromwell.

[4] *Jemmibullero*—This was a silly and abusive song, written by a Mr. S. Waterhouse, a stanch tory; but with so little wit, that it only exposed the writer to contempt.

Transcriber's Errata List

Errata list: for the entry for p. 69, the original already reads "artifices." For the entry for p. 120, "bottom" should be "top."

Page 231: The sentence, "I shall only essay an analysis or a sketch of it, at present," appears to be a printer error.

*** END OF THE PROJECT GUTENBERG EBOOK NOVANGLUS, AND MASSACHUSETTENSIS ***

Updated editions will replace the previous one—the old editions will be renamed.

Creating the works from print editions not protected by U.S. copyright law means that no one owns a United States copyright in these works, so the Foundation (and you!) can copy and distribute it in the United States without permission and without paying copyright royalties. Special rules, set forth in the General Terms of Use part of this license, apply to copying and distributing Project Gutenberg™ electronic works to protect the PROJECT GUTENBERG™ concept and trademark. Project Gutenberg is a registered trademark, and may not be used if you charge for an eBook, except by following the terms of the trademark license, including paying royalties for use of the Project Gutenberg trademark. If you do not charge anything for copies of this eBook, complying with the trademark license is very easy. You may use this eBook for nearly any purpose such as creation of derivative works, reports, performances and research. Project Gutenberg eBooks may be modified and printed and given away—you may do practically ANYTHING in the United States with eBooks not protected by U.S. copyright law. Redistribution is subject to the trademark license, especially commercial redistribution.

START: FULL LICENSE

THE FULL PROJECT GUTENBERG™ LICENSE

PLEASE READ THIS BEFORE YOU DISTRIBUTE OR USE THIS WORK

To protect the Project Gutenberg™ mission of promoting the free distribution of electronic works, by using or distributing this work (or any other work associated in any way with the phrase “Project Gutenberg”), you agree to comply with all the terms of the Full Project Gutenberg License available with this file or online at www.gutenberg.org/license.

Section 1. General Terms of Use and Redistributing Project Gutenberg electronic works

1.A. By reading or using any part of this Project Gutenberg electronic work, you indicate that you have read, understand, agree to and accept all the terms of this license and intellectual property (trademark/copyright) agreement. If you do not agree to abide by all the terms of this agreement, you must cease using and return or destroy all copies of Project Gutenberg electronic works in your possession. If you paid a fee for obtaining a copy of or access to a Project Gutenberg electronic work and you do not agree to be bound by the terms of this agreement, you may obtain a refund from the person or entity to whom you paid the fee as set forth in paragraph 1.E.8.

1.B. “Project Gutenberg” is a registered trademark. It may only be used on or associated in any way with an electronic work by people who agree to be bound by the terms of this agreement. There are a few things that you can do with most Project Gutenberg electronic works even without complying with the full terms of this agreement. See paragraph 1.C below. There are a lot of things you can do with Project Gutenberg electronic works if you follow the terms of this agreement and help preserve free future access to Project Gutenberg electronic works. See paragraph 1.E below.

1.C. The Project Gutenberg Literary Archive Foundation (“the Foundation” or PGLAF), owns a compilation copyright in the collection of Project Gutenberg electronic works. Nearly all the individual works in the collection are in the public domain in the United States. If an individual work is unprotected by copyright law in the United States and you are located in the United States, we do not claim a right to prevent you from copying, distributing, performing, displaying or creating derivative works based on the work as long as all references to Project Gutenberg are removed. Of course, we hope that you will support the Project Gutenberg mission of promoting free access to electronic works by freely sharing Project Gutenberg works in compliance with the terms of this agreement for keeping the Project Gutenberg name associated with the work. You can easily comply with the terms of this agreement by keeping this work in the same format with its attached full Project Gutenberg License when you share it without

charge with others.

1.D. The copyright laws of the place where you are located also govern what you can do with this work. Copyright laws in most countries are in a constant state of change. If you are outside the United States, check the laws of your country in addition to the terms of this agreement before downloading, copying, displaying, performing, distributing or creating derivative works based on this work or any other Project Gutenberg work. The Foundation makes no representations concerning the copyright status of any work in any country other than the United States.

1.E. Unless you have removed all references to Project Gutenberg:

1.E.1. The following sentence, with active links to, or other immediate access to, the full Project Gutenberg License must appear prominently whenever any copy of a Project Gutenberg work (any work on which the phrase “Project Gutenberg” appears, or with which the phrase “Project Gutenberg” is associated) is accessed, displayed, performed, viewed, copied or distributed:

> This eBook is for the use of anyone anywhere in the United States and most other parts of the world at no cost and with almost no restrictions whatsoever. You may copy it, give it away or re-use it under the terms of the Project

Gutenberg™ License included with this eBook or online at www.gutenberg.org. If you are not located in the United States, you will have to check the laws of the country where you are located before using this eBook.

1.E.2. If an individual Project Gutenberg electronic work is derived from texts not protected by U.S. copyright law (does not contain a notice indicating that it is posted with permission of the copyright holder), the work can be copied and distributed to anyone in the United States without paying any fees or charges. If you are redistributing or providing access to a work with the phrase “Project Gutenberg” associated with or appearing on the work, you must comply either with the requirements of paragraphs 1.E.1 through 1.E.7 or obtain permission for the use of the work and the Project Gutenberg trademark as set forth in paragraphs 1.E.8 or 1.E.9.

1.E.3. If an individual Project Gutenberg electronic work is posted with the permission of the copyright holder, your use and distribution must comply with both paragraphs 1.E.1 through 1.E.7 and any additional terms imposed by the copyright holder. Additional terms will be linked to the Project Gutenberg License for all works posted with the permission of the copyright holder found at the beginning of this work.

1.E.4. Do not unlink or detach or remove the full Project Gutenberg License terms from this work,

or any files containing a part of this work or any other work associated with Project Gutenberg.

1.E.5. Do not copy, display, perform, distribute or redistribute this electronic work, or any part of this electronic work, without prominently displaying the sentence set forth in paragraph 1.E.1 with active links or immediate access to the full terms of the Project Gutenberg License.

1.E.6. You may convert to and distribute this work in any binary, compressed, marked up, nonproprietary or proprietary form, including any word processing or hypertext form. However, if you provide access to or distribute copies of a Project Gutenberg work in a format other than “Plain Vanilla ASCII” or other format used in the official version posted on the official Project Gutenberg website (www.gutenberg.org), you must, at no additional cost, fee or expense to the user, provide a copy, a means of exporting a copy, or a means of obtaining a copy upon request, of the work in its original “Plain Vanilla ASCII” or other form. Any alternate format must include the full Project Gutenberg License as specified in paragraph 1.E.1.

1.E.7. Do not charge a fee for access to, viewing, displaying, performing, copying or distributing any Project Gutenberg works unless you comply with paragraph 1.E.8 or 1.E.9.

1.E.8. You may charge a reasonable fee for copies of or providing access to or distributing Project Gutenberg electronic works provided that:

• You pay a royalty fee of 20% of the gross profits you derive from the use of Project Gutenberg works calculated using the method you already use to calculate your applicable taxes. The fee is owed to the owner of the Project Gutenberg trademark, but he has agreed to donate royalties under this paragraph to the Project Gutenberg Literary Archive Foundation. Royalty payments must be paid within 60 days following each date on which you prepare (or are legally required to prepare) your periodic tax returns. Royalty payments should be clearly marked as such and sent to the Project Gutenberg Literary Archive Foundation at the address specified in Section 4, “Information about donations to the Project Gutenberg Literary Archive Foundation.”

• You provide a full refund of any money paid by a user who notifies you in writing (or by e-mail) within 30 days of receipt that s/he does not agree to the terms of the full Project Gutenberg™ License. You must require such a user to return or destroy all copies of the works possessed in a physical medium and discontinue all use of and all access to other copies of Project Gutenberg™ works.

• You provide, in accordance with paragraph 1.F.3, a full refund of any money paid for a work or a replacement copy, if a defect in the electronic work is discovered and reported to you within 90 days of receipt of the work.

• You comply with all other terms of this agreement for free distribution of Project

Gutenberg™ works.

1.E.9. If you wish to charge a fee or distribute a Project Gutenberg™ electronic work or group of works on different terms than are set forth in this agreement, you must obtain permission in writing from the Project Gutenberg Literary Archive Foundation, the manager of the Project Gutenberg™ trademark. Contact the Foundation as set forth in Section 3 below.

1.F.

1.F.1. Project Gutenberg volunteers and employees expend considerable effort to identify, do copyright research on, transcribe and proofread works not protected by U.S. copyright law in creating the Project Gutenberg™ collection. Despite these efforts, Project Gutenberg™ electronic works, and the medium on which they may be stored, may contain “Defects,” such as, but not limited to, incomplete, inaccurate or corrupt data, transcription errors, a copyright or other intellectual property infringement, a defective or damaged disk or other medium, a computer virus, or computer codes that damage or cannot be read by your equipment.

1.F.2. LIMITED WARRANTY, DISCLAIMER OF DAMAGES - Except for the “Right of Replacement or Refund” described in paragraph 1.F.3, the Project Gutenberg Literary Archive Foundation, the owner of the Project Gutenberg™ trademark, and any other party distributing a Project Gutenberg™ electronic work under this agreement, disclaim all liability

to you for damages, costs and expenses, including legal fees. YOU AGREE THAT YOU HAVE NO REMEDIES FOR NEGLIGENCE, STRICT LIABILITY, BREACH OF WARRANTY OR BREACH OF CONTRACT EXCEPT THOSE PROVIDED IN PARAGRAPH 1.F.3. YOU AGREE THAT THE FOUNDATION, THE TRADEMARK OWNER, AND ANY DISTRIBUTOR UNDER THIS AGREEMENT WILL NOT BE LIABLE TO YOU FOR ACTUAL, DIRECT, INDIRECT, CONSEQUENTIAL, PUNITIVE OR INCIDENTAL DAMAGES EVEN IF YOU GIVE NOTICE OF THE POSSIBILITY OF SUCH DAMAGE.

1.F.3. LIMITED RIGHT OF REPLACEMENT OR REFUND - If you discover a defect in this electronic work within 90 days of receiving it, you can receive a refund of the money (if any) you paid for it by sending a written explanation to the person you received the work from. If you received the work on a physical medium, you must return the medium with your written explanation. The person or entity that provided you with the defective work may elect to provide a replacement copy in lieu of a refund. If you received the work electronically, the person or entity providing it to you may choose to give you a second opportunity to receive the work electronically in lieu of a refund. If the second copy is also defective, you may demand a refund in writing without further opportunities to fix the problem.

1.F.4. Except for the limited right of replacement or refund set forth in paragraph 1.F.3, this work is provided to you ‘AS-IS’, WITH NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR

IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PURPOSE.

1.F.5. Some states do not allow disclaimers of certain implied warranties or the exclusion or limitation of certain types of damages. If any disclaimer or limitation set forth in this agreement violates the law of the state applicable to this agreement, the agreement shall be interpreted to make the maximum disclaimer or limitation permitted by the applicable state law. The invalidity or unenforceability of any provision of this agreement shall not void the remaining provisions.

1.F.6. INDEMNITY - You agree to indemnify and hold the Foundation, the trademark owner, any agent or employee of the Foundation, anyone providing copies of Project Gutenberg™ electronic works in accordance with this agreement, and any volunteers associated with the production, promotion and distribution of Project Gutenberg™ electronic works, harmless from all liability, costs and expenses, including legal fees, that arise directly or indirectly from any of the following which you do or cause to occur: (a) distribution of this or any Project Gutenberg work, (b) alteration, modification, or additions or deletions to any Project Gutenberg work, and (c) any Defect you cause.

Section 2. Information about the Mission of Project Gutenberg

Project Gutenberg is synonymous with the free

distribution of electronic works in formats readable by the widest variety of computers including obsolete, old, middle-aged and new computers. It exists because of the efforts of hundreds of volunteers and donations from people in all walks of life.

Volunteers and financial support to provide volunteers with the assistance they need are critical to reaching Project Gutenberg's goals and ensuring that the Project Gutenberg collection will remain freely available for generations to come. In 2001, the Project Gutenberg Literary Archive Foundation was created to provide a secure and permanent future for Project Gutenberg and future generations. To learn more about the Project Gutenberg Literary Archive Foundation and how your efforts and donations can help, see Sections 3 and 4 and the Foundation information page at www.gutenberg.org.

Section 3. Information about the Project Gutenberg Literary Archive Foundation

The Project Gutenberg Literary Archive Foundation is a non-profit 501(c)(3) educational corporation organized under the laws of the state of Mississippi and granted tax exempt status by the Internal Revenue Service. The Foundation's EIN or federal tax identification number is 64-6221541. Contributions to the Project Gutenberg Literary Archive Foundation are tax deductible to the full extent permitted by U.S. federal laws and your state's laws.

The Foundation's business office is located at 41

Watchung Plaza #516, Montclair NJ 07042, USA, +1 (862) 621-9288. Email contact links and up to date contact information can be found at the Foundation's website and official page at www.gutenberg.org/contact

Section 4. Information about Donations to the Project Gutenberg Literary Archive Foundation

Project Gutenberg™ depends upon and cannot survive without widespread public support and donations to carry out its mission of increasing the number of public domain and licensed works that can be freely distributed in machine-readable form accessible by the widest array of equipment including outdated equipment. Many small donations ($1 to $5,000) are particularly important to maintaining tax exempt status with the IRS.

The Foundation is committed to complying with the laws regulating charities and charitable donations in all 50 states of the United States. Compliance requirements are not uniform and it takes a considerable effort, much paperwork and many fees to meet and keep up with these requirements. We do not solicit donations in locations where we have not received written confirmation of compliance. To SEND DONATIONS or determine the status of compliance for any particular state visit www.gutenberg.org/donate.

While we cannot and do not solicit contributions from states where we have not met the

solicitation requirements, we know of no prohibition against accepting unsolicited donations from donors in such states who approach us with offers to donate.

International donations are gratefully accepted, but we cannot make any statements concerning tax treatment of donations received from outside the United States. U.S. laws alone swamp our small staff.

Please check the Project Gutenberg web pages for current donation methods and addresses. Donations are accepted in a number of other ways including checks, online payments and credit card donations. To donate, please visit: www.gutenberg.org/donate.

Section 5. General Information About Project Gutenberg electronic works

Professor Michael S. Hart was the originator of the Project Gutenberg concept of a library of electronic works that could be freely shared with anyone. For forty years, he produced and distributed Project Gutenberg eBooks with only a loose network of volunteer support.

Project Gutenberg eBooks are often created from several printed editions, all of which are confirmed as not protected by copyright in the U.S. unless a copyright notice is included. Thus, we do not necessarily keep eBooks in compliance with any particular paper edition.

Most people start at our website which has the main PG search facility: www.gutenberg.org.

This website includes information about Project Gutenberg, including how to make donations to the Project Gutenberg Literary Archive Foundation, how to help produce our new eBooks, and how to subscribe to our email newsletter to hear about new eBooks.