AN HUMBLE ENQUIRY INTO

The NATURE of the DEPENDENCY of the AMERICAN COLONIES upon the PARLIAMENT of GREAT-BRITAIN,

AND

The RIGHT of PARLIAMENT to lay TAXES on the said COLONIES.

By a FREEHOLDER of SOUTH-CAROLINA.

A House divided against itself cannot stand.

When people heard ship money demanded as a right, and found it by sworn judges of the law adjudged so, upon such grounds and reasons as every flanderby was able to swear was not law, and so had lost the pleasure and delight of being kind and dutiful to the King, and, instead of GIVING, were required to PAY, and by a logic that left no man anything that he might call his own, they no more looked upon it as the case of one man, but the case of the kingdom, nor as an imposition laid upon them by the King, but by the judges, which they thought themselves bound in publick justice not to submit to. It was an observation long ago of Thucydides, **"That men are much more passionate for injustice than for violence, because (faith he) the one proceeding as from an equal seems rapine, when the other proceeding from a stranger is but the effect of necessity."**

—When they saw reason of state urged as elements of law, judges as sharp-sighted as secretaries of state, judgment of law grounded upon matters of fact of which there was neither enquiry nor proof, and no reason given for the payment but what included all the estates of the flanders by, they had no reason to hope that doctrine, or the promoters of it, would be contained within any bounds; and it is no wonder that they who had so little reason to be pleased with their own condition were so less solicitous for, or apprehensive of the inconveniences that might attend any alteration. —History of the long Rebellion, vol. 1. p. 70, 71.

PRINTED in the YEAR M,DCC,LXIX.

[Price Twelve Shillings and Sixpence.]
THOUGH few or none claim infallibility in express terms, yet it is very difficult ever to persuade some men they are mistaken. We generally have so good an opinion of our own understanding, that insensibly we take it for granted those that do not think as we do must needs be in the wrong. When disputes are once heightened by personal prejudice, or the bitterness of party, it becomes so much the more difficult to the disputants themselves to see their mistakes, and even to bystanders the truth appears wrapped up in a cloud, and through the fog and dust of argument becomes almost imperceptible.

These remarks I believe will particularly hold good in the subject now in agitation between Great-Britain and her colonies, a subject however of too serious a nature to be given up to prejudice, or to be decided by the rage of party. Every argument pro or con deserves to be most carefully weighed, and he that sets the whole in the clearest light does the publick no inconsiderable service, and that whether it be by pointing out the justice of the American claims to Great-Britain, or setting such constitutional arguments before the Americans as must either leave obstinacy inexcusable, or will dispose loyal and reasonable men to a cheerful acquiescence.

The argument on which the Americans seem to lay the greatest stress is, they say that it is a principle of the British constitution, that no Englishman ought to be taxed but by his own consent, given either by himself or his representative. I find it admitted by such as disapprove the American claims, that no man is bound by any law to which he hath not given his consent either in person or by a representative. Perhaps these two propositions are not perfectly equivalent; however it seems clear, that he that holds that no man is bound by ANY LAW to which he has not personally or by a representative consented, must also admit, that no man is bound by any law that lays a tax on him without his consent given by himself or representative. What is true of ALL laws in general must also hold true of EVERY law in particular. If no law can operate upon any man that hath not in the above manner given his assent to
it, certainly no such law can be binding upon whole communities, or any considerable part of the whole nation. In the spirit of the above principle, it seems essential to law, that it be assented to by such on whom it is afterwards to operate. To suppose, therefore, that a law is binding upon such as have not given their assent, is to suppose (I argue upon that principle) a law may be valid and binding at the same time it is confessedly defective of the very essential point to make it so; and if the assent of those that are to be governed by the law is not necessary or essential to the making of it, then representation is a mere superfluous thing, no better than an excrescence in the legislative power, which therefore at any convenient time may be lopped off at pleasure, and without the least danger to the constitution; the governed then have no part in the legislation at all, the will of those in power, whoever they be, is the supreme and sole law, and what hath been above asserted to be a constitutional principle seems to me to fall to the ground without remedy to all intents and purposes.

Supposing, on the other hand, that principle, as is asserted to be constitutional, then to me, as is further asserted, it seems to be of the very nature of it, that it be general and hold in all cases. This it does not only clearly imply, but also fully and strongly express; but yet if so, it would also seem that no man, or no people, in no case, or by no power whatever, can be bound to pay a tax to which they have not consented either personally or by their representatives. Every constitutional principle must be general and hold in all cases, and I may add in all places too, for it is usually said that the liberties of an Englishman follow him to the end of the world, much more then must they follow him over all the British dominions; this is so true, that by an express law, the children of British parents, though born in a foreign dominion, are just as much entitled to all British liberties as those who have been born within the realm.

An inference may possibly hence be drawn, that if so, the British colonies are subject to none of the acts of the British Parliament, (still because they never assented to them neither in person nor by representative) and therefore must be considered as independent of the legal or parliamentary power of Great-Britain. I confess I should be sorry to see America independent of Great-Britain, and if any of the arguments the Americans make use of imply an independency on the mother state, I should shrewdly suspect there must be some fallacy couched under an otherwise specious appearance. The sum and strength of this inference I conceive lies thus: The British legislature must be the supreme power in all the British dominions, and if so, all the British dominions ought to pay obedience in all cases to all the laws in which they are mentioned that may be enacted.
acted by the *British* Parliament, and to refuse obedience in any such case is to declare themselves an independent people.

I freely own I have not heard any thing stronger said in favour of taxation by the *British* Parliament, and I think this argument is highly deserving the most serious consideration. Every good man would wish to hear the voice of dispassionate reason before he forms his judgment in any debate. Vulgar prejudices may sway vulgar minds, but a wise man is neither carried away by the torrent of power, nor the blast of popularity. I would endeavour therefore to consider this argument with all the candour and impartiality I am capable of; I would do it with a mind open to conviction, and with it a determination sufficient to follow truth wherever the may lead me.

To have a clear view how far this argument may affect the present question between *Great-Britain* and her colonies, it will be necessary carefully to state the relation which they bear to one another; without this we shall never have a precise and determinate idea of the matter. The argument I think is made up of two propositions, *viz.*

The Parliament of *Great-Britain* is the supreme legislature in all the *British* empire.

All the *British* dominions therefore ought to pay obedience there-to in all cases and to all the laws in which they are mentioned, and to refuse obedience to any such is to declare themselves an independent people.

Before I proceed to take a distinct view of each of these propositions, I repeat, that they are said to be built upon a constitutional principle, and that this principle must be general and hold in all cases; this must undoubtedly be admitted, for what enters into the very essence of the constitution must doubtless operate as far as the constitution itself. Let us now proceed to consider every part of these two propositions distinctly, and this must infallibly lead us to form a sound judgment of the whole.

The kingdom of *Great-Britain* consists of two parts, north and south, or *England* and *Scotland*, united since 1707 into one kingdom, under the name of *Great-Britain*. This union hath not been so full and absolute, as to put both kingdoms in all respects upon a perfect equality; but though the legislature is the same, yet the laws and the administration of justice are not the same in every instance. The same legislature making laws that affect only the one or the other of these kingdoms, and even laws made to be binding upon both, do not affect both alike, of which the difference in raising the supplies by land tax is a very full and striking proof, this could not be the case if the union between the two kingdoms was so entire and absolute, as for instance between *England* and the principality of *Wales*.

The *British Empire* is a more extensive word, and should not be
be confounded with the kingdom of Great-Britain; it consists of England, Scotland, Ireland, the Islands of Man, Jersey, Guernsey, Gibraltar, and Minorca, &c. in the Mediterranean; Senegal, &c. in Africa; Bombay, &c. in the East-Indies; and the Islands and Colonies in North-America, &c. As England, strictly so called, is at the head of this great body, it is called the mother country; all the settled inhabitants of this vast empire are called Englishmen, but individuals, from the place of their nativity or residence, are called English, Scotch, Irish, Welch, Americans, &c.

Scotland and Ireland were originally distinct kingdoms and nations, but the colonies in America, being settled upon lands discovered by the English, under charters from the crown of England, were always considered as a part of the English nation, and of the British empire, and looked upon as dependent upon England; I mean, that before the union of the two kingdoms, (and very few colonies have been settled since) they depended on England only, and even now I suppose are rather considered as a dependance upon England than of the two kingdoms united under the name of Great-Britain. Were it not for the union, which incorporates the two kingdoms, the colonies never would have depended on that part of Britain called Scotland, and by the terms of the union I apprehend England has not given up or brought her colonies under the dominion of Scotland, but those dependent on Great-Britain, they still remain what they always were, English colonies.

All the inhabitants of the British empire together form the British nation, and that the British Parliament is the supreme power and legislature in the British nation I never heard doubted.

By the English constitution, which is that which prevails over the whole empire, all Englishmen, or all that make up the British empire, are entitled to certain privileges indefeasible, unalienable, and of which they can never be deprived, but by the taking away of that constitution which gives them these privileges. I have observed that the British empire is made up of different kingdoms and nations, but it is not the original constitution of Scotland or Ireland, but of England, which extends and communicates its privileges to the whole empire. This is an undeniable principle, and ought never to be lost out of sight, if we would form a sound judgment on the question now to be considered.

From the consideration above admitted, that the British Parliament is the supreme legislative power in the whole British empire, the following conclusion has been drawn; the colonies (and the same I suppose is meant of all the British empire, of which the colonies are a part) are bound by and subject to all the laws of the British Parliament in which they are mentioned, or are subject to none of any kind whatsoever.
Before this can be properly discussed, it must be observed, that Great-Britain has not only a Parliament, which is the supreme legislature, but also a constitution, and that the now Parliament derives its authority and power from the constitution, and not the constitution from the Parliament. It may also be very fairly inferred hence, that the liberties of Englishmen arise from and depend on the English constitution, which is permanent and ever the same, whereas the individuals which compose the Parliament are changed at least once every seven years, and always at the demise of a king.

The Parliament of Great-Britain is the supreme legislature in the British empire. It must be so either absolutely or agreeable to the constitution; if absolutely, it can alter the constitution whenever it sees fit; if absolutely, it is not bound by the constitution, nor any thing else; if agreeable to the constitution, then it can no more make laws, which are against the constitution, or the unalterable privileges of British subjects, than it can alter the constitution itself. Supposing a Parliament, under some of the arbitrary reigns of the last century, should have made a law, that for the future the king's warrant should be sufficient to lay a tax on the subject, or to oblige him to pay ship money, it would have been an act of the supreme legislature, but it may safely be doubted, whether the nation would have thought it constitutional. I conclude therefore, that the power of Parliament, and of every branch of it, has its bounds assigned by the constitution.

If the power of the Parliament is limited by the constitution, it may not be improper next to enquire, whether the power of the British Parliament affects all the subjects of the British empire in the same manner.

If the power of the British Parliament affects all the subjects of the British empire in the same manner, it follows, that all the laws made by the British Parliament are binding alike upon all those over whom this power extends, or in other words, that all the subjects of the British empire are bound not only by those laws in which they are expressly mentioned, but every law by the Parliament made, for what need is there to mention every individual of those for whom the law is made in general, every subject therefore of the British empire, upon this supposition, must be bound by every law of the British Parliament, unless expressly excepted.

Those that hold the subjects of Great-Britain, living without England or Scotland, are bound by every law in which they are mentioned, seem also clearly to hold, that the same persons are not bound by such laws in which they are not mentioned. Thus the alternative, that the subjects of the British empire must be subject to all or none of the laws of the British Parliament, is limited even by those who plead for an universal submission. He that is only bound
to obey some laws, cannot be said to be bound by all laws. But, on the contrary, he that is bound to obey all laws, is excused in none.

I suppose, before the union with Scotland, none would have scrupled to call the English Parliament the supreme legislature of all the British empire, though Scotland was still an independent kingdom, and by the union Scotland and its Parliament was not swallowed up and absorbed by England and its Parliament, but united with the kingdom, and the Parliaments also of the two kingdoms united in one general legislature. The ecclesiastical laws and constitution also of each kingdom remains as it was before, i.e. entirely different from each other.

Perhaps it may not be amiss to conceive, that the authority of the British Parliament extends over the whole British nation, though the different respective subjects are not altogether alike affected by its laws: That, with regard to national trade, the power of making it most beneficial to the head and every branch of the empire is vested in the British Parliament, as the supreme power in the nation, and that all the British subjects everywhere have a right to be ruled by the known principles of their common constitution.

Next, it may be proper to take a nearer view how far, and in what manner, the acts of Parliament operate upon the different subjects of the British empire.

England doubtless is the first and primary object of the British Parliament, and therefore all laws immediately affect every resident in England; and of the king himself it has been said, *Rex Angliae in regno suo non habet superiorem nisi Deum & legem*. Proceedings at law I take to be the same in England and England’s dependencies.

Scotland is united with England, and therefore there is a different operation of the laws that subsist before and those that have been made since the union, and even these do not affect Scotland as of themselves; but in consequence of and in the terms of the union between the two nations, the union makes no alteration in proceedings at law, nor does it take away any private property.

Ireland is a distinct kingdom, and hath been conquered from the native Irish two or three times by the English; it hath nevertheless a Parliament of its own, and is a part of the British empire. It will best appear how far the British Parliament think Ireland dependent upon Great-Britain, by inferring, *A Bill for the better securing of the Dependency of Ireland*. The act was as follows: Whereas attempts have lately been made to shake off the subjection of Ireland unto, and dependence upon the imperial crown of this realm, which will be of dangerous consequence to Great-Britain and Ireland. And whereas the House of Lords in Ireland, in order thereto, have, of late, against law, assumed to themselves a power and jurisdiction to examine, correct and amend, the judgment and decrees of the courts of justice in the kingdom of Ireland; therefore, for the better
If 'I' er securing of the dependency of Ireland upon the crown of Great-Britain, may it please your Majesty, that it may be enacted, and it is hereby declared and enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the said kingdom of Ireland hath been, is, and of right ought to be, subordinate unto, and dependent upon the imperial crown of Great-Britain, as being indissolubly united and annexed thereunto, and that the King's Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons of Great-Britain, in Parliament assembled, had, hath, and of right ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the people and kingdom of Ireland.

And be it farther enacted, by the authority aforesaid, That the House of Lords of Ireland have not, nor of right ought to have, any jurisdiction to judge of, affirm, or reverse any judgment, sentence, or decree, given or made in any court within the said kingdom, and that all proceedings before the House of Lords upon any such judgment, sentence, or decree, are, and are hereby declared to be utterly null and void to all intents and purposes whatsoever.

The occasion of this bill was an appeal brought 1719 from the House of Peers in Ireland to the House of Peers in England. A Pitt was the first that spoke against it in the House of Commons, because, as he said, in his opinion it seemed calculated for no other purpose than to encrease the power of the British House of Peers, which in his opinion was already but too great. The Duke of Leeds protested against it in the House of Lords, and gave fifteen reasons to support the claim of the House of Peers in Ireland. The bill however passed, though Mr. Hungerford, Lord Moleysworth, Lord Tyrconnel, and other members, endeavoured to shew, that Ireland was ever independent with respect to courts of judicature. Some proposals have several years ago been made to incorporate Ireland with Great-Britain, but without any effect.

The Islands of Guernsey and Jersey, though in ecclesiastical matters considered as a part of Hampshire, are under the direction of an Assembly called the Convention of the States of Jersey, &c. The Isle of Man hath lately been annexed to the crown, but their own Manks laws still obtain in the island.

The British colonies and islands in America are not the least important part of the British empire; that these owe a constitutional dependence to the British Parliament I never heard they denied; though of late they have frequently been charged with it, these charges have not been grounded upon any declaration of theirs of the kind, their very petitioning, petitions and resolutions, manifestly
feftly speaking the very reverie, but their aversion to certain new duties, laid upon them for the sole purpose of raising a revenue, have been made a handle of against them, and they have as good as been charged, that they declare themselves an independent people. These insinuations the Americans are apt to look upon as being neither very fair nor very friendly; however at present I would only consider what kind of dependence is expected from the American colonies. An act of Parliament has fixed that of Ireland, a later act of the same power hath also fixed that of America, though, as will appear from the comparison, not altogether on the same footing. The act is entitled, An Act for the better securing the Dependency of his Majesty's Dominions in America upon the Crown and Parliament of Great-Britain, and runs thus:

Whereas several of the Houses of Representatives in his Majesty's colonies and plantations in America have of late, against law, claimed to themselves, or to the General Assemblies of the same, the sole and exclusive right of imposing duties and taxes upon his Majesty's subjects in the said colonies and plantations, and, in pursuance of such claim, passed certain votes, resolutions and orders, derogatory to the legislative authority of Parliament, and inconsistent with the dependency of the said colonies and plantations upon the crown of Great-Britain, may it therefore please your most excellent Majesty, that it may be declared, and be it declared, by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, That the said colonies and plantations in America have been, are, and of right ought to be, subordinate unto and dependent upon the imperial crown and Parliament of Great-Britain, and that the King's Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, of Great-Britain, in Parliament assembled, had, hath, and of right ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the colonies and people of America, subjects of the crown of Great-Britain, in all cases whatsoever.

And be it further declared and enacted, by the authority aforesaid, That all resolutions, votes, orders and proceedings, in any of the said colonies or plantations, whereby the power and authority of the Parliament of Great-Britain to make laws and statutes as aforesaid is denied, or drawn into question, are, and are hereby declared to be utterly null and void to all intents and purposes whatsoever.

This is the standard of dependence which the Parliament of Great-Britain hath fixed for the British colonies on the 18th of March, 1766. The Stamp Act was repealed the same day, and the opinion of several noblemen who protested against that repeal.
peal was, "that this declaratory bill cannot possibly obviate the "growing mischiefs in America, where it may seem calculated only "to deceive the people of Great-Britain, by holding forth a de- "lusive and nugatory affirmation of the legislative right of Great- "Britain, whilst the enacting part of it does no more than abro- "gate the resolutions of the House of Representatives in the "North-American colonies, which have not in themselves the least "colour of authority, and declares that which is apparently and "certainly criminal only null and void." I presume I may ven- ture to affirm, that in and by this act, the Parliament did not mean to set aside the constitution, infringe the liberties of Britiʃh sub- jects, or to vindicate unto themselves an authority which it had not before, was known to have, and would always have had, though this act had never been made. I also find, that, in order to over- ride any act, law, resolution, or proceeding, of the colony Assemblies, nothing seems necessary, but that the Parliament should declare it null and void to all intents and purposes whatsoever. And it seems pretty clear, that the same power that can disannul any act by a simple declaration, with one single stroke more, can also annihilate the body that made it.

The remark already made, that though all the different parts of the Britiʃh empire are in a state of dependence upon the Parliament of Great-Britain, yet that the nature and degree of dependence is not exactly alike in the respective different parts of the same, will receive new strength and light, if we compare the act for better securing the dependency of Ireland with that for better se- curing the dependency of the colonies. Both acts, though at dif- ferent times, have been made by the same authority, and for a similar purpose, and none can better tell us what kind and degree of dependency the Parliament expects and requires of its depend- ents than the Parliament itself.

The Britiʃh is entitled in very general words, for the better securing the dependency of Ireland.

The title of the American law is more explicit; Ireland's depend- ency is mentioned, but the dependency of the Americans is more clearly expressed, and said to be upon the crown and Parliament of Great-Britain. America seems to owe two dependencies, one to the crown, and one to the Parliament.

The preamble of the Britiʃh bill brings no less a charge than an attempt to shake off subjection unto and dependence upon the im- perial crown of Great-Britain.

The preamble of the American bill brings no such accusation, but only, that the Americans have claimed an exclusive right to lay on taxes on his Majesty's subjects within the colonies, and passed votes and resolutions derogatory to the legislative power of Parlia- ment, and inconsistent with the dependency of the said colonies.
and plantations upon the crown (the word and Parliament is not made ule of in this place) of Great-Britain. The principal differerces between these bills seems to me to lie in this, that Ireland is laid to be subject to and dependent only on the crown of Great-Britain, whereas America throughout is declared subject, at least dependent and subordinate, not only to the crown, but also to the Parliament of Great-Britain, and then Ireland is only declared dependent upon, and subordinate to, in very gentle terms, whereas the right of making laws to bind the Americans is expressed in these very strong, most extensive terms, IN ALL CASES WHATSOEVER.

Time was when the dependency of the colonies upon England was spoke of exactly in the terms made ule of for Ireland; the charter of this province faith, "our pleasure is, that the tenants and inhabitants of the said province be subject IMMEDIATELY to the crown of England, as depending thereof forever," but by the late law all America is laid to be dependent on crown and Parliament. This alteration seems to me by no means immaterial, but to imply a change both in the subjection expected from the colony and in the authority to which the colony owes dependency and subordination.

In Parliament, King, Lords, and Commons, constitute the supreme power; but as each of these has its own distinct unalienable right, and incommunicale prerogatives, rights, or privileges, so I cannot but conceive dependency upon the crown and dependency upon crown and Parliament are things not exactly alike. If (as asserted in the charter) the colonies at some time or other were only dependent on the crown, and now are subordinate unto and dependent upon crown and Parliament, it should seem both the authority on which they depend, and the nature of their dependency, hath undergone some alteration; neither doth this appear to me a trifling alteration, and it seems to me at least if so it must needs make some alteration in the system of government and obedience.

Hitherto all appeals from the colonies, after palling thro' chancery in America, have been made to the King in council; this I conceive must have been in consequence of the dependency of the colonies immediately upon the crown; but perhaps for the future appeals will not be carried to the King in council, but to the King and Parliament.

The crown has hitherto had a right of a negative upon all American laws, and they were obliged to be passed in America with a saving clause; but if, as is asserted in the declaratory bill, the King has a right and power to make laws to bind the Americans, by end with the advice and consent of the Lords Spiritual and Temporal, and Commons of Great-Britain, assembled in Parliament, then probably the same authority must also concur to repeal the laws made in America, whereas the crown hitherto repealed any law made in A-
America without asking or waiting for the consent of Lords and Commons.

It appears also, by a late act suspending the Assembly of New-York, that the parliamentary authority also extends to suspend, which is but another word for proroguing or dissolving (or annihilating) Assemblies; all which has hitherto been done by the crown without the interfering of Parliament: But that the crown hath a right of proroguing or dissolving the Parliament itself by its own authority I suppose will not be denied. I cannot dismiss this subject without observing, that even the declaratory bill speaks of the Assemblies in America as Houses of Representatives. If it is allowed that they are represented in America, unless they are represented doubly, they cannot be represented anywhere; this strikes at the root of virtual representation, and if representation is the basis of taxation, they cannot be taxed but where they are represented, unless they are doubly taxed, as well as doubly represented.

It is evident upon the whole, that a much greater degree of dependency and subordination is expected of America than of Ireland, though, by the way, Ireland, in the preamble of their bill, is charged with much greater guilt than America; nay, the words in ALL CASES WHATSOEVER are so exceeding extensive, that, in process of time, even hewing of wood, and drawing of water, might be argued to be included in them.

It was necessary to state the authority claimed by Parliament over America as clear and full as possible; with regard to the Americans it must be owned, when they profess to owe dependency and subordination to the British Parliament, they do not mean so extensive and absolute a dependency as here seems to be claimed, but that they think themselves in a constitutional manner dependent upon and in subordination to the crown and Parliament of Great-Britain, even those votes, resolutions, and proceedings, which are disannulled by the House of Commons and the declaratory bill, must fully and cheerfully declare.

It has indeed been said, that unless they are subject to all the British acts in which they are mentioned, they are subject to none of any kind whatsoever, and consequently to be considered as independent of the legal and parliamentary power of Great-Britain; but I should think it might be as fairly and safely concluded, that while the Americans declare themselves subject to any one law of the British legislature, it cannot be said they declare themselves independent, or not subject to any law whatever.

In so delicate and important a matter, may I be permitted to observe, that the measure of power and of obedience in every country must be determined by the standard of its constitution. The dispute seems to lie between the Parliament and colonies; the Parliament will certainly be the fitting judges; I will not take upon
me to say that the Americans may not look upon Parliament as judge
and party; however, it is very possible for a judge to give a most
righteous sentence, even where he himself is deeply interested, but
they that are sufferers by the sentence will ever be apt to wish that
he had not been party as well as judge.

From what hath been said hitherto, the due and constitutional
authority of the British Parliament appears clear, and it does not
least for I hope, that the subordination to and dependency on the
British Parliament is not exactly the same in all the respective parts
of that extensive empire; perhaps this will appear with still greater
evidence by taking a particular view of the subject of taxation.

Any unlimited power and authority may lay on the subjects any
tax it pleases; the subjects in that case themselves are mere pro-
erty, and doubtless their substance and labour must be at their
disposal who have the disposal of their persons. This is the case in
arbitrary governments; but the British empire is an empire of free-
men, no power is absolute but that of the laws, and, as hath been
asserted, of such laws to which they that are bound by them have
themselves consented.

Did the power and authority of the British Parliament in point
of taxation extend in the same manner over all its dependencies,
* e.g. the same over Scotland as over England, over Ireland in the same
manner as over Scotland, over Guernsey and Jersey as over Ireland, &c.
then the very same act which lays a general tax would lay it also at
the same time upon all over whom that authority extends. The laws
of every legislature are supposed to extend to and be made over all
within their jurisdiction, unless they are expressly excepted. Thus
an excise law extends to all the British kingdom, because it is a
publick law; but acts have frequently been made to lay on a penny
Scots on beer, which, being for a local purpose, cannot operate on
the whole kingdom. The same I believe may be said with regard
to the method of recovering small debts; it seems absurd to say,
that any supreme legislature makes an unlimited law which at the
same time is designed not to be binding upon the greatest part of
the subjects within that empire. Was it ever known that the land
tax being laid on the whole united kingdom, the bishoprick of
Durham, and the manor of East-Greenwich, were not also supposed
to be included? and if any part within the immediate jurisdiction,
and equally dependent on the same legislature, should be designed
to be excused from, or not liable to pay a general tax, would it not
be absolutely necessary that such a place should be expressly excepted?
If, because America is a part of the British empire, it is as
much so, or in the same manner is a part of it, as is the bishoprick
of Durham, or the manor of East-Greenwich, nothing can be plainer
than that it must be affected by every tax that is laid just in the same
manner and proportion as is the bishoprick of Durham, or manor
of
EAST-GREENWICH. This hath not been the case, nor thought to be
the case hitherto. Ireland and America have not been called upon
to pay the British land tax, malt tax, nor indeed any tax in which
they have not been expressly mentioned; the reason of which I pre-
sume must be, either that the British Parliament did not look upon
them as any part of the kingdom of Great-Britain, or else did not
think them liable to any tax in which they were not expressly men-
tioned. If any subjects of the British empire are not liable to any
or every tax laid on by the British Parliament, it must be either be-
cause they are not liable by the constitution, (as not being repre-
sented) or because they are excused by the favour of Parliament; if
they are not liable by the privileges of the constitution, their not
being compelled to pay is no favour, the contrary would be op-
pression and an anticonstitutional act; if they have been hitherto
excused by the lenity of the British Parliament, it must be owned
the Parliament bore harder on those who were made to pay those
taxes than on those who by their lenity only were excused.

The noble Lords who protested against the repeal of the Stamp
Act observe, "it appears to us, that a most essential part of that
authority, (cf. the whole legislative authority of Great Britain,
without any distinction or reverence whatsoever) the power of le-
gislation, cannot be properly, equitably, or impartially exercis-
ed, if it does not extend infinitly to all the members of the rate in
proportion to their respective abilities, but suffers a part to be
exempt from a due share of those burdens which the publick
exigencies require to be imposed upon the whole: A partiality
which is directly and manifestly repugnant to the trust reposed
by the people in every legislature, and destructive of that confi-
dence on which all government is founded."

If in the opinion of these Noblemen, therefore, it is partiality
to suffer any part of the rate to be exempt from a due share of
those burdens which the publick exigencies require should be im-
posed upon the whole, it would also seem to be a species of partial-
ity, to lay a burden on any part of the rate which the other parts
of the same rate are not equally bound to bear. Partial burdens,
or partial exemptions, would doubtless affect those that are bur-
dened or exempted in a very different manner; but if not extending
alike to the whole, must still be looked upon as partial. And if
this partiality is inconsistent with the trust reposed BY THE PEOPLE
in every legislature, it would also seem that the legislature could not
lay any burdens but as entrusted by the people who chose them to
be their representatives and a part of the legislature. We may
hence also learn what is to be expected, if every other part of the
British empire, England and Scotland only excepted, have hitherto
been exempted from the taxes paid in England, which it must be
owned are very heavy, by mere favour; or, as long seem to express
florant partiality and injustice;" their being indulged time im-
memorial will not be deemed a sufficient plea to excuse them al-
ways, but with an impartial hand the very fame taxes that now ob-
tain in Great-Britain will be laid upon Ireland, America, Jersey,
Guernsey, the Mediterranean, African and East-India settlements,
and, in short, on every individual part of the British empire. Whe-
ther a design to do this be not ripening space I will not take upon
me to say, but whenever it does, it must make some alteration in the
policy of the mother and infant state, may in the system of the whole
British empire.

There are several parts of the British empire that pay no tax at
all; this I take to be the case of Gibraltar, Minorca, Newfoundland,
East-Florida, and all the African and East-India settlements, &c.
The reason is, that all these places have no legislature of their own,
and consequently none to give or dispose of their property; had
these places been taxed by Parliament, there might however this
reason been given, that having no representatives within themselves,
and having never contributed anything to the publick burdens,
though they all receive protection, perhaps greater than the Amer-
can colonies, the Parliament supplied that defect; but this cannot
be urged against the colonies, who both have legislatures, and also
contributed to the publick burdens, and that so liberally, that even
the crown and Parliament thought they had exerted themselves be-
yond their abilities, and for several years gave them remuneration.
I may mention those parts of the British empire as striking instances,
that where there is no representation, taxation hath not been thoug-
t of, and yet Newfoundland, which is not taxed at all, is certainly as
much represented in Parliament as all the colonies, which are de-
signed to be doubly taxed.

By the constitution taxes are in the nature of a free gift of the
subjects to the crown; regulations of trade are measures to secure
and improve the trade of the whole nation. There is no doubt but
regulations may be made to ruin as well as to improve trade; yet
without regulations trade cannot subsist, but must suffer and sink;
and it seems no where more proper to lodge the power of making
these regulations than in the highest court of the empire; yet a man
may trade or not, he may buy or let it alone; if merchandizes are
rated so high that they will not suit him to purchase, though it may
be an inconvenience, yet there is no law to compel him to buy; to
rate the necessaries of life, without which a man cannot well do,
beyond their real value, and hinder him at the same time from pur-
chasing them reasonably of others, is scarce confient with free-
dom; but when duties are laid on merchandizes not to regulate
trade, but for the express and sole purpose of raising a revenue,
they are to all intents and purposes equal to any tax, but they can
by
by no means be called the free gift of those who never helped to make the law, but, as far as in them lay, ever looked upon it as an unconstitutional grievance.

If taxes are a free GIFT of the people to the crown, then the crown hath no right to them but what is derived from the GIVERS. It may be absolutely necessary that the subject should give, but still he that is to give must be supposed the judge both of that necessity, and how much he may be able and ought to give upon every necessary occasion. No man can give what is not his own, and therefore the constitution hath placed this right to judge of the necessity, and of what is to be given, in the Commons as the representatives of all those who are to give, in vesting a right in them to give publick supplies to the crown; it did not, could not mean to invest them with any power to give what neither belongs to them, nor those whom they represent; and therefore, as no man constitutionally owes obedience to any law to which he has not assented either in person or by his representative, much less doth the constitution oblige any man to part with his property, but freely and by his own consent; what those who are representatives are not willing to give, no power in Great-Britain hath any right violently to take, and for a man to have his property took from him under pretence of a law that is not constitutional, would not be much better than to have it took from him against the express consent of those whom he constitutionally made his representatives.

It is held a maxim, that in government a proportion ought to be observed between the share in the legislature and the burden to be borne. The Americans pretend to no share in the legislature of Great-Britain at all, but they hope they have never forfeited their share in the constitution.

Every government supposes rule and protection from the govern- ors, support and obedience from those that are governed; from these duly tempered anions the prerogative of the crown and the liberty of the subject; but he that has not a right to his own hath no property, and he that must part with his property by laws against his consent, or the consent of the majority of the people, has no liberty. The British constitution is made to secure liberty and property; whatever takes away the constitution itself, and cannot be constitutional.

To form a clear judgment on the power of taxation, it must be enquired on what right that power is grounded. It is a fundamental maxim of English law, that there is a contract between the crown and subjects; if so, the crown cannot lay on any tax, or any other burden, on the subject, but agreeable to the original contract by authority of Parliament; neither can the Lords properly concur, or the Commons frame a tax bill for any other purpoe but the sup-
port of the crown and government, consistent with the original
contract between that and the people.

All subjects are dependent on and subordinate to the government
under which they live. An Englishman in France must observe the
laws of France; but it cannot be said that the dependency and sub-
ordination in England is the same as dependency and subordination
in France. In governments where the will of the sovereign is the
supreme law, the subjects have nothing to give, their all is in the
disposal of the government; there subjects pay, but having nothing
of their own cannot give; but in England the Commons GIVE and
GRANT. This implies both a free and voluntary act, and that
they give nothing but their own property.

Though every part of the British empire is bound to support and
promote the advantage of the whole, it is by no means necessary
that this should be done by a tax indiscriminately laid on the whole;
it seems sufficient that every part should contribute to the support of
the whole as it may be able, and as may best suit with the com-
mon constitution.

I have before observed the different degree of dependency on the
mother state; I shall now review the same again, with a particular
regard to imposing or paying taxes, and if a material difference
hath always obtained in this respect, it will confirm my assertion,
that every branch of the British empire is not affected by the tax
laws of Great-Britain in the self same manner.

The Parliament has a right to tax, but this right is not inherent
in the members of it as men; I mean, the members of Parliament
are not (like the Senate of Venice) to many rulers who have each of
them a native and inherent right to be the rulers of the people of Eng-
land, or even their representatives; they do not meet together as a
court of proprietors to consider their common interest, and agree with
one another what tax they will lay on those over whom they bear rule,
or whom they represent, but they only exercise that right which
nature hath placed in the people in general, and which, as it can-
not conveniently be exercised by the whole people, these have
lodged in some of their body chosen from among themselves, and
by themselves, for that purpose, and empowered for a time only to
transact the affairs of the whole, and to agree in their behalf on
such supplies as it may be necessary to furnish unto the crown for
the support of its dignity, and the necessities and protection of the
people.

It would be absurd to say, that the crown hath a right to lay on
a tax, for as taxes are granted to the crown, so in this case the crown
would make a grant to itself, and hence the bill of rights expressly
affirms, that the levying of money for or to the use of the crown, by pre-
tence of prerogatives, without grant of Parliament, for a longer time or
in any other manner than the same is or shall be granted, is illegal; hence also there is a material difference between money bills and all other laws. The King and Lords cannot make any amendment in money bills, as the House of Lords frequently doth in all others, but must accept or refuse them such as they are offered by the Commons, the constitutional reason of which is very obvious, it is the people only that give, and therefore giving must be the sole act of those by whom the givers are represented. The crown cannot take till it is given, and they that give cannot give but on their own behalf, and of those whom they represent; nay even then they cannot give but in a constitutional manner; they cannot give the property of those they represent without giving their own also exactly in the same proportion; every bill must be equally binding upon all whom they represent, and upon every one that is a representative.

Every representative in Parliament is not a representative for the whole nation, but only for the particular place for which he hath been chosen. If any are chosen for a plurality of places, they can make their election only for one of them. The electors of Middlesex cannot chuse a representative but for Middlesex, and as the right of sitting depends entirely upon the election, it seems clear to demonstration, that no member can represent any but those by whom he hath been elected; if not elected he cannot represent them, and of course not consent to any thing in their behalf. While Great-Britain's representatives do not sit assembled in Parliament, no tax whatever can be laid by any power on Great-Britain's inhabitants; it is plain therefore, that without representation there can be no taxation. It representation arises entirely from the free election of the people, it is plain that the elected are not representatives in their own right, but by virtue of their election; and it is not less so, that the electors cannot confer any right on those whom they elect but what is inherent in themselves; the electors of London cannot confer or give any right to their members to lay a tax on Middlesex, but the election made of them double takes empowers them to agree to or differ from any measures they think agreeable or disagreeable to their constituents, or the kingdom in general. If the representatives have no right but what they derive from their electors and election, and if the electors have no right to elect any representatives but for themselves, and if the right of sitting in the House of Commons arises only from the election of those design'd to be representatives, it is undeniable, that the power of taxation in the House of Commons cannot extend any further than to those who have delegated them for that purpose; and if none of the electors in England could give a power to those whom they elected to represent or tax any other part of his Majesty's dominions except themselves, it must follow, that when the Commons are met, they represent no other place or part of his Majesty's dominions, and
cannot give away the property but of those who have given them a power to do by choosing them their representatives.

The Parliament hath the sole right to lay on taxes, and, as hath been observed in Parliament, 'tis not the King and Lords that GIVE and GRANT, but this is the sole act of the Commons. The Commons have the right to do so either from the crown or people, or it is a right inherent in themselves. It cannot be inherent in themselves, for they are not born representatives, but are so by election, and that not for life, but only for a certain time; neither can they derive it from the crown, else the liberty and property of the subject must be entirely in the disposal and possession of the crown; but if they hold it entirely from the people, they cannot hold it from any other people but those who have chosen them to be their representatives, and it should seem they cannot extend their power of taxing beyond the limits of time and place, nor indeed for any other purpose but that for which they have been chosen. As the Commons in Parliament cannot lay any tax but what they must pay themselves, and falls equally on the whole kingdom of England, so, by a fundamental law, they cannot lay but such a part of the general tax on some part of the united kingdom. The principality of Wales was never taxed by Parliament till it was incorporated and represented, and, poor as it is, it pays now considerably larger than Scotland, which is as big again. When England is taxed two millions in the land tax, no more is paid in Scotland than 48,000l. and yet to lay a higher land tax on North Britain the British Parliament cannot, it cannot without breaking the union, that is, a fundamental law of the kingdom. All the right it hath to tax Scotland arises from and must be executed in the terms of the union.

The Islands of Guernsey, &c. are not taxed by the British Parliament at all, they still have their own States, and I never heard that the British Parliament ever offered to hinder them to lay on their own taxes, or to lay on additional ones, where they are not represented.

Ireland

* While Scotland was yet a separate kingdom, it was once debated in Parliament, whether a subsidy should be granted, or overtures for liberty first be considered; when the Queen's Ministry insisted on the former, a member urged, that it was now plain the nation was to expect no return for their expense and toil, but to be put to the charge of a subsidy, and to lay down their necks under the yoke of slavery, &c. Another member said, that he insisted for having a vote upon the question which had been put: That he found as the liberties of the nation were suppreffed, to the privileges of Parliament were like to be torn from them, but that he would rather venture his life than that it should be so, and should choose rather to die a freeman than live a slave. Some preferred for the vote, adding, that if there was no other way of obtaining so natural and undeniable a privilege of the Parliament, they would demand it with their swords in their hands.

See Annals of Queen Anne for 1703, page 76. There were no American speak-
Ireland is a conquered kingdom, the greater part of its inhabitants Papists, who in England pay double tax. The Romans always made a difference between their colonies and their conquests, and as reasonable, allowed greater and indeed all common liberties to the former. Ireland hath been conquered twice again upon the native's price, Nevertheless it hitherto had its own legislature; if the Parliament of Great-Britain claims a right to tax them, they never yet have made use of that right, and feeling for ages past they enjoyed the privilege of having their own property disposed of by representatives in a Parliament of their own, it is very natural to suppose, that they think themselves entitled to these things, and the more so, because, in the very bill that determines their dependency, they are not said to be dependent on the British Parliament, nor yet on crown and Parliament, but only on the crown of Great-Britain.

I would now proceed to take a distinct view of the point in debate between Great-Britain and her colonies.

It seems to be a prevailing opinion in Great-Britain, that the Parliament hath a right to tax the Americans, and that, unless they have so, America would be independent of Great-Britain.

And it seems to be a prevailing opinion in America, that to be taxed without their consent, and where they are not and cannot be represented, would deprive them of the rights of Englishmen, nay, in time, with the loss of the constitution, would deprive them of liberty and property altogether.

It is easily seen, that this is a very interesting subject, the consequences in each case very important, though in neither so alarming and dangerous to Britain as to America. With regard to Great-Britain, if it should not prove so as is claimed, the consequence can only be this, that then no tax can be laid, or revenue be raised, on the Americans, but where they are represented, and in a manner which they think consistent with their natural rights as men, and with their civil and constitutional liberties as Britons. The dependency of America upon Great-Britain will be as full and firm as ever, and they will cheerfully comply with the requisitions of the crown in a constitutional manner. The question is not, whether the Americans will withdraw their subordination, or refuse their assistance, but, whether they themselves shall give their own property, where they are legally represented, or, whether the Parliament of Great-Britain, which does not represent them, shall take their property, and dispose of it in the same manner as they do theirs whom in Parliament they actually represent. The Americans do not plead for a right to withhold, but freely and cheerfully to give. If 100,000l. are to be raised, the question is not, shall they be raised or no? but shall the Parliament levy so much upon the Americans, and order them...
them to pay it, as a gift and grant of the Commons of Great-Britain to the King? or, shall the Americans also have an opportunity to shew their loyalty and readiness to serve the King by freely granting it to the King themselves? It is not to be denied the Americans apprehend, that if any power, no matter what the name, where they are not represented, hath a right to lay a tax on them at pleasure, all their liberty and property is at an end, and they are upon a level with the meanest slaves.

England will not lose a shilling in point of property; the rights and privileges of the good people of Britain will not be in the least affected, supposing the claim of the Americans just and to take place; whereas every thing dreadful appears in view to the Americans if it should turn out otherwise. The crown cannot lose; the Americans are as willing to comply with every constitutional requisition as the British Parliament itself can possibly be. The Parliament cannot lose, it will still have all the power and authority it hitherto had, and ought to have had, and when every branch of the legislature, and every member of the British empire, has a true regard to reciprocal duty, prerogative and privilege, the happiness of the whole is best likely to be secured and promoted.

The Americans most solemnly disclaim every thought, and the very idea of independency; they are sometimes afraid they are charged with a desire of it, not because this appears to be the real case, but to set their arguments in an invidious light, and to make them appear odious in the sight of their mother country. This is not a dispute about a punctilio, the difference in the consequence is amazingly great; supposing America is not taxed where not represented, and supposing things are left upon the same footing in which with manifest advantage to Britain and America they have been ever since Britain had colonies, neither the trade nor authority of Britain suffers the least diminution, but the mischief to the colonies is beyond all expression, if the contrary should take place. If they are not to raise their own taxes, all their Assemblies become useless in a moment, all their respective legislatures are annihilated at a stroke; an act passed by persons, most of whom probably never saw, nor cared much for America, may destroy all the acts they ever passed, may lay every burden upon them under which they are not expected immediately to sink, and all their civil and religious liberties, for which their forefathers went into this wilderness, and, under the smiles of Heaven, turned it into a garden, and of immense consequence to the mother country, will, or may be at an end at once. Probably the present Parliament or generation would never carry matters to this length, but who knows what might be done in the next? The first settlers of the American wilds never expected that would come to pass what we have seen already. It seems as if some evil genius had prevailed of late; had these new duties
duties been laid on payable in England, at least the expence of a Board of Commissioners, and of the swarms of new officers, might have been prevented; but it looks as though some men wished that America might not only be borne hard upon, but also be made to know and feel that their liberty and property lay at the mercy of others, and that they must not flatter themselves to enjoy them any longer than the good pleasure of some who would willingly take away what they never did give. I have endeavoured candidly to state the question, let us now endeavour to view the claim made on each side as calmly and impartially as possible.

'Tis said the British Parliament hath a right to tax the Americans. If this proposition is incontrovertible, it must certainly be built on such a basis and such clear principles as will be sufficient to dispose loyal and reasonable men cheerfully to acquiesce in it. There are some points in government which perhaps are best never touched upon, but when any question once becomes the subject of publick debate, strength of reason is the sole authority that with men of reason can determine the matter.

If the Parliament of Great-Britain have a right to tax the Americans, it must either be the same right in virtue of which they have a right to tax Great-Britain, and be vested in them by the same power, or it must be a distinct right either inherent in themselves, or vested in them by some other power.

The right of the Commons of Great-Britain to lay on taxes arises, as I conceive, from their having been chosen by the people who are to pay these taxes to act in their behalf and as their representatives. There may be other qualifications necessary, that a man be a Briton born, subject of the King, possessed of a certain estate, &c., but none is so absolutely necessary as election. He that hath been a representative had a right to refuse or concur in any tax bill whilst a member, but if he is not chosen again in a following Parliament, he hath no right whatever to meddle in the matter; this proves that the power is originally in the people, and the legislative capacity of the whole House, and of every member, depends upon their free election, and is of force no longer than for the time for which they have been elected; this being elapsed, the trust reposed in them entirely ceases, it absolutely returns to the body of the people; in that interval during which the people are unrepresented, any power their representatives might have is entirely and solely in the people themselves, no tax can be laid on, nor any law to bind the people be formed, for this plain reason, because there are no persons qualified for the purpose. The people have not representatives assigned, but chose them, and being so chosen, the rights of the people reside now in them, and they may, but not before, act in their behalf. Now, when the crown issues writs of election, it is not to empower
empower the electors to chuse representatives for America, nor yet for all Great-Britain, but only for some certain place specified in the writ; and when the electors of Great-Britain chuse representatives, their meaning also is not to chuse representatives for their fellow subjects in America, or any where else, but for themselves. In Great-Britain English electors cannot elect in behalf of Scotland, and Scotch electors cannot in behalf of England; and for the same reason neither Scotch nor English can elect any for America. These electors do not represent the Americans, nor are they their proxies to vote in members in their behalf; neither can British electors give any instructions to British representatives, or invest them with any power to dispose of the rights and property of any of their fellow subjects without the kingdom of Great-Britain. It seems not unreasonable then to conclude, that the right which the elected acquire by their election to pass tax laws binding upon their electors does not at the same time give them a right to represent and lay on taxes on those who never invested them with any such power, and by whom they neither were nor could be elected. If the Americans themselves are not received as voters in the bishoprick of Durham, manor of East Greenwich, or any place mentioned in their charters, and the same liberty and privileges with those places therein secured unto them, if they are not allowed to chuse any representatives for themselves in the House of Commons, it seems natural, that what they have no right to do themselves, none can have a right to do for them, and so no body can chuse or send a representative for them to any place where they are not allowed to sit or be represented. If so, the electors of Great-Britain never in fact elected representatives for America, nor could these electors possibly convey any power to give away property where they have no property themselves. The electors do not represent America, neither their representatives by them elected; the electors cannot dispose of the property of America, therefore they cannot give a power so to do unto others. In England there can be no taxation without representation, and no representation without election; but it is undeniable that the representatives of Great-Britain are not elected by nor for the Americans, and therefore cannot represent them; and so, if the Parliament of Great-Britain has a right to tax America, that right cannot possibly be grounded on the consideration that the people of Great-Britain have chosen them their representatives, without which choice they would be no Parliament at all.

If the Parliament of Great-Britain has a right to tax the Americans distinct from the right which they derive from their electors, and which they exercise as the representatives of the people of Great-Britain, then this right they must hold either from the crown, or from the Americans, or else it must be a native inherent right in them-
themselves, at least a consequence of their being representatives of
the people of Great-Britain.

It is plain that the colonies have been settled by authority and
under the sanction of the crown, but as the crown did not reserve
unto itself a right to rule over them without their own Assemblies,
but on the contrary established legislatures among them, as it did
not reserve a right to lay taxes on them in a manner which, were
the experiment made in England, might be thought unconstitu-
tional, so neither do I find that a reserve of that kind was made by
the crown in favour of the Parliament, on the contrary, by the
charters all the inhabitants were promised the enjoyment of the same
and all privileges of his Majesty's liege subjects in England, of which
doubtless not to be taxed where they are not represented is one of
the principal. As to any right that might accrue to Parliament
from any act or surrender of the Americans, I believe it hath never
been thought of; they have a profound veneration for the British
Parliament, they look upon it as the great palladium of the British
liberties, but still they are not the e represented, they have had
their own legislatures and representatives for ages past, and as a
body cannot be more than in one place at once, they think they
cannot be legally represented in more than one legislative body, but
also think, that by the laws of England Protestants ought not to be
doubly taxed, or, what they think worse, taxed in two places.

If therefore this right of taxing the Americans resides in the Com-
mons of Great Britain at all, it must be an inherent right in them-
selves, or at least in consequence of their being representatives of
the people of Great-Britain. The act for better securing the depen-
dency of the colonies, which I have inserted at large, evidently
seems to tend this way. That the colonies were thought at the
diposition of Parliament one might be led to think, because by that
act, from the simple authority of the crown, which they were till
then subject to by their charters, they were now declared to be sub-
ordinate to and dependent (on the joint authority) of crown and
Parliament. Yet, concerning this act, I would only observe, that
however it may determine the case from that day, it cannot be the
ground on which the subordination of the colonies originally was
or now can be built; for it declares not only, that the colonies
are and ought to be, but also that they always have been,
subject to crown and Parliament. A law binds after it is made,
it cannot bind before it exists, and so surely it cannot be said, that
the colonies have always been bound by a law which is above a
hundred years posterior to them in point of existence. It is also a
little difficult to reconcile this law with prior charters; our Carolina
charter makes our province subject immediately to the crown, and
near a hundred years after a law is made to declare, that this was not
not and must not be the case, but that the Americans always were and ought to be subject to crown and Parliament. Perhaps this hath not been so seriously considered as it may hereafter, but neither this nor any law can be supposed to be binding ex post facto, or contrary to our fundamental constitution. Montesquieu observes, that the British constitution (which God preserve) will be lost, whenever the legislative power shall be more corrupted than the executive part of the legislature.

And after all, in this very law, the Americans are allowed to be represented in their own Assemblies, and to lay on duties and taxes, though not exclusively; but whether America, or any part of the British empire, should be liable to have taxes imposed on them by different legislatures, and whether these would not frequently clash with one another to the detriment of crown and subjects, I leave others duly to consider.

It is said, if America cannot be taxed by the British Parliament, then it would be independent of Great-Britain. This is now a very popular cry, and it is well if many join in it only because they know no better. This is not, will not, cannot be the case. America confessedly hath not been thus taxed since it was settled; but no body in Britain or America ever dreamed that America was independent. In England the people cannot be taxed when the Parliament does not sit, or when it is dissolved; are they then therefore independent? Scotland cannot be taxed in the same degree as England; is it therefore independent? Ireland and Jersey have their own legislatures, and so tax themselves; will you call them independent? All those parts of the British empire that have no Assemblies pay no taxes at all, neither among themselves, nor to Great-Britain; but it will not therefore be said, that they are independent. The Parliament itself claims a right to refuse supplies till their grievances are heard and redressed, this is looked upon as a constitutional remedy against any encroachments by the crown, and hath very often been made use of in former reigns, and yet the Parliament neither claimed nor were charged with a desire of independency. Those who so freely charge with a desire of independency, and even treason and rebellion, would do well to consider, that this charge, heinous as it is, reflects greater disgrace on those who unjustly make it, than on those on whom it is unjustly made. A man of honour would not easily forgive himself whenever he should discover that he made so rash a charge against two millions of people, as innocent, loyal, and well affected to their King and country, as any of his fellow subjects or himself possibly can be. There never was an American Jacobite, the very air of America is death to such monsters, never any grew there, and if any are transported, or import themselves, lots of speech always attends them. The loyalty of the Americans to
so their King hath not only been ever untainted, it hath never been as much as suspected. There is a difference between independency and uneasiness. In the late reign, the people in England were uneasie at the Jew Bill, and it was rapidly repealed; in the present, the Cyder Act was an odious measure, and immediately altered, and that without any disgrace or diminution of parliamentary authority. If there hath been any appearance of riot in America, perhaps it may hereafter appear at whole instigation, the law was ever open, and even overbearing odious Custom-House Officers might have been redressed, if they had thought fit to apply for a legal rather than a military remedy. In England it is possible Majesty itself hath met with indignities which have not been shewn in America even to those men to whom the nation in general is indebted for the present uneasiness, and it is not improbable, that, after all that hath been said and done, the Americans will be found an exception to the general rule, that oppression makes even a wife man mad: An ancient rule, the truth of which hath been experienced in England oftener than in America. The opinion of the Americans is, that to be taxed where they are not represented would deprive them of the rights of Englishmen, nay, in time, with the loss of the constitution, might and must deprive them of liberty and property altogether. These it must be owned are gloomy apprehensions; two millions of people are so thoroughly prepossessed with them, that even their children unborn may feel the parents impressions; should there be any real ground for them, the Americans can hardly be blamed; they sit uneasy under them; they can no more help their uneasiness, than deny the blood which glows in their veins, or be angry with the milk that was their first nourishment. This is not a dark abstruse point, but seems plain and essential to the very being of liberty. The sole question is, Is it, or is it not, the right of an Englishman not to be taxed where he is not represented? Can you be tired of being represented, O Britons! Is it consistent with the constitution you so justly boast of to be thus taxed? Then representation is not essential to your constitution, and sooner or later you will either give it up or be deprived of it. A borough that does not exist shall send two representatives, a single county, neither the largest nor richest, shall send forty-four members, and two millions of souls, and an extent of land of eighteen hundred miles in length, shall have taxes laid on them by such as never were nearer to them than one thousand leagues, and whose interest it may be to lay heavy burdens on them in order to lighten their own. And are these, who are thus taxed, unrepresented, unheard and unknown, Englishmen, and taxed by Englishmen? Do these enjoy what the charters most solemnly ensure them, the same
and all the privileges of the subjects born and resident within the realm? I must doubt it.

Let those who make light of American grievances give a plain answer to this plain question, Are the colonies to be taxed by Parliament represented in Parliament? if they are, by whom, or since when? if not, once more, Is it, or is it not, the right of Britons not to be taxed where not represented? Here the whole matter hinges, and surely the question is not so impertinent but a civil answer might be given before a mother sends fire and sword into her own bowels. When constitutional liberty is once lost, the transit is very short to the loss of property; the same power that may deprive of the one may also deprive of the other, and with equal justice; those that have not liberty enough to keep their property in reality have no property to keep. Some that look no further build right upon power, and insist the Parliament can do so. If power is all that is meant very like it may, so it may alter the constitution. If a stately tree should take umbrage at some diminutive shrubs, it can fall upon and crush them, but it cannot fall upon them without tearing up its own roots; it can crush those within reach, but its own branches will take off the weight of the impression, permit the shrubs to lend forth new shoots, while there is no great probability that the envious oak will return to its former stand and vigour. Ceût une chose a bien considerer, (this ought to be well considered first) said Molière's Malade imaginaire, when his quarterback proposed to him to have one of his arms cut off, because it took some of the nourishment which in that case would center in the other, and make it so much the stronger. If every Assembly in America is suspended, the consequence must be, that the people are without their usual legislature, and in that case nothing short of a miracle seems capable to prevent an anarchy and general confusion. No power can alter the nature of things, that which is wrong cannot be right; and oppression will never be productive of the love and smiles of those that feel it.

The Parliament can crush the Americans, but it can also, and with infinitely greater certainty and ease, conciliate their affections, have the ultimate gain of all their labours, and by only continuing them the privileges of Britons, that is, by only doing as they would be done by, diffuse the blessings of love and concord throughout the whole empire, and to the latest posterity; and which of these two is the most eligible, it is NOW for you, O Britons! to consider, and in considering it, majores vestes cogitate & posteros, think on your ancestors and your posterity.

Those whom God hath joined together, (Great-Britain and America, Liberty and Loyalty) let no man put asunder: And may peace and prosperity ever attend this happy union, 

Feb. 1, 1769.