

AN  
ARGUMENT

IN  
DEFENCE OF THE EXCLUSIVE RIGHT  
CLAIMED BY THE COLONIES TO TAX THEMSELVES;

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

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

AND THE

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

L O N D O N :

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MDCCLXXIV.

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A N

ARGUMENT in DEFENCE

O F T H E

RIGHTS of the COLONIES.

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

**T**H E united opposition given by the Colonies, to the act of the 5th of his present Majesty, *for granting stamp duties in America*, is fresh in every one's memory: and the weight of authorities for and against that act, and the arguments that prevailed in obtaining its repeal, are so well known as to make it unnecessary to repeat them.

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

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

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

The

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

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

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

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

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

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



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

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

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

and

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

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

forefathers, to whom these privileges were granted.

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

#### THE CONSTITUTION OF ENGLAND.

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

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

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

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

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

“ When

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

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

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

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

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

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

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

“ The

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

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

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

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

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

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

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

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



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

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

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

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

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

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

But

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

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

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

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

founded on the particular interest of the party accused.”

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

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

“ It

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

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

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“ The

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

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

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

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

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

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

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

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

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

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

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

"When



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

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

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

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

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

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

## THE CONSTITUENT PARTS OF A PARLIAMENT.

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

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

sure,

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

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

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

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

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

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

And

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

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

“ AID<sup>S</sup> GRANTED TO THE KING SHALL NOT BE  
TAKEN FOR A CUSTOM.”

“ AND SHALL NOT BE RAISED BUT BY CONSENT.”

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

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

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

we

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

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

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

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

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

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

“ No

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

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

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

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



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

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

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

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

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

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

" That

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

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

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

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

Cheſter

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

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

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

*tents 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 boroughs of this kingdom have."*

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

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

THE FIRST FOUNDATION OF THE COLONY OF  
NEW ENGLAND, LAID IN THE REIGN OF  
QUEEN ELIZABETH IN 1595.

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

NEAL'S *History of the Puritans*, vol. I. p. 386.

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

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



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

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

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

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

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

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

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

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

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

They

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

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

was

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

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

*MATHER and NEAL'S History of New England.*

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

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

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

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

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

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

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

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

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



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

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

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

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

Mr. HUTCHINSON'S *History*.

THE CHARTER OF THE CITY OF LONDON FORFEITED IN 1682 (BEING THE YEAR BEFORE THE QUO WARRANTO WENT AGAINST THE CHARTER OF MASSACHUSETT'S-BAY.

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

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