

SOURCES AND DOCUMENTS

FROM THE ROYAL PROCLAMATION ON NORTH
AMERICA,¹ 7 OCTOBER 1763

BY THE KING. A PROCLAMATION. GEORGE, R.

WHEREAS we have taken into our royal consideration the extensive and valuable acquisitions in America secured to our Crown by the late definitive treaty of peace concluded at Paris the 10th day of February last ; and being desirous that all our loving subjects, as well of our kingdom as of our colonies in America, may avail themselves, with all convenient speed, of the great benefits and advantages which must accrue therefrom to their commerce, manufactures, and navigation ; we have thought fit, with the advice of our Privy Council, to issue this our Royal Proclamation, hereby to publish and declare to all our loving subjects that we have, with the advice of our said Privy Council, granted our letters patent under our Great Seal of Great Britain, to erect within the countries and islands ceded and confirmed to us by the said treaty, four distinct and separate governments, styled and called by the names of Quebec, East Florida, West Florida, and Grenada, and limited and bounded as follows, viz. :

First, the Government of Quebec, bounded on the Labrador coast by the river St. John, and from thence by a line drawn from the head of that river, through the lake St. John, to the south end of the lake Nipissim ; from whence the said line, crossing the river St. Lawrence and the lake Champlain in 45 degrees of north latitude, passes along the high lands which divide the rivers that empty themselves into the said river St. Lawrence from those which fall into the sea ; . . .

Secondly, the Government of East Florida, bounded to the westward by the gulf of Mexico and the Apalachicola river ; to the northward, by a line drawn from that part of the said river where the Chatahoochee and Flint rivers meet, to the

¹ *Annual Register* for 1763, pp. 208-13. Also printed in full, from the manuscript, in Shortt and Doughty, *Documents relating to Constitutional History of Canada* (1918 ed.), i. 163-5.

source of the St. Mary's river, and by the course of the said river to the Atlantic Ocean: . . .

Thirdly, the Government of West Florida, bounded to the . . . westward, by the lake Pontchartrain, the lake Maurepas, and the river Mississippi; to the northward, by a line drawn due east from that part of the river Mississippi which lies in 31 degrees north latitude, to the river Apalachicola or Chatahoochee; and to the eastward, by the said river. . . .

We have also, with the advice of our Privy Council aforesaid, annexed to our Province of Georgia all the lands lying between the rivers Altamaha and St. Mary's.

And whereas it is just and reasonable, and essential to our interest and the security of our colonies, that the several nations or tribes of Indians with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions or territories as, not having been ceded to or purchased by us, are reserved to them, or any of them, as their hunting-grounds; we do therefore, with the advice of our Privy Council, declare it to be our royal will and pleasure, that no Governor or commander in chief, in any of our colonies of Quebec, East Florida, or West Florida, do presume, upon any pretence whatever, to grant warrants of survey, or pass any patents for lands beyond the bounds of their respective governments, as described in their commissions; as also that no Governor or commander in chief of our other colonies or plantations in America do presume for the present, and until our further pleasure be known, to grant warrants of survey or pass patents for any lands beyond the heads or sources of any of the rivers which fall into the Atlantic Ocean from the west or north-west; or upon any lands whatever, which, not having been ceded to or purchased by us, as aforesaid, are reserved to the said Indians, or any of them.

And we do further declare it to be our royal will and pleasure, for the present as aforesaid, to reserve under our sovereignty, protection, and dominion, for the use of the said Indians, all the land and territories not included within the limits of our said three new governments, or within the limits of the territory granted to the Hudson's Bay Company; as also all the land and territories lying to the westward of the sources of the rivers which fall into the sea from the west and north-

west as aforesaid; and we do hereby strictly forbid, on pain of our displeasure, all our loving subjects from making any purchases or settlements whatever, or taking possession of any of the lands above reserved, without our special leave and license for that purpose first obtained.

And we do further strictly enjoin and require all persons whatever, who have either wilfully or inadvertently seated themselves upon any lands within the countries above described, or upon any other lands which, not having been ceded to or purchased by us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such settlements.

And whereas great frauds and abuses have been committed in the purchasing lands of the Indians, to the great prejudice of our interests, and to the great dissatisfaction of the said Indians; in order, therefore, to prevent such irregularities for the future, and to the end that the Indians may be convinced of our justice and determined resolution to remove all reasonable cause of discontent, we do, with the advice of our Privy Council, strictly enjoin and require, that no private person do presume to make any purchase from the said Indians of any lands reserved to the said Indians within those parts of our colonies where we have thought proper to allow settlement; but that if at any time any of the said Indians should be inclined to dispose of the said lands, the same shall be purchased only for us, in our name, at some public meeting or assembly of the said Indians, to be held for that purpose by the Governor or commander in chief of our colony respectively within which they shall lie: and in case they shall lie within the limits of any proprietary government, they shall be purchased only for the use and in the name of such proprietaries, conformable to such directions and instructions as we or they shall think proper to give for that purpose. And we do, by the advice of our Privy Council, declare and enjoin, that the trade with the said Indians shall be free and open to all our subjects whatever, provided that every person who may incline to trade with the said Indians do take out a license for carrying on such trade, from the Governor or commander in chief of any of our colonies respectively where such person shall reside, and also give security to observe such regulations as we shall at any time think fit, by ourselves or commissaries to be appointed for this purpose, to direct and appoint for the

benefit of the said trade. And we do hereby authorize, enjoin, and require the Governors and commanders in chief of all our colonies respectively, as well those under our immediate government as those under the government and direction of proprietaries, to grant such licenses without fee or reward, taking especial care to insert therein a condition that such license shall be void, and the security forfeited, in case the person to whom the same is granted shall refuse or neglect to observe such regulations as we shall think proper to prescribe as aforesaid.

And we do further expressly enjoin and require all officers whatever, as well military as those employed in the management and direction of Indian affairs within the territories reserved as aforesaid, for the use of the said Indians, to seize and apprehend all persons whatever who, standing charged with treasons, misprisions of treason, murders, or other felonies or misdemeanors, shall fly from justice and take refuge in the said territory, and to send them under a proper guard to the colony where the crime was committed of which they shall stand accused, in order to take their trial for the same.

Given at our Court at St. James's, the 7th day of October 1763, in the third year of our reign.

FROM JAMES OTIS'S 'RIGHTS OF THE COLONIES'

The Rights of the British Colonies asserted and proved. By James Otis, Esq., Boston, 1764.

[p. 8] It is, however, true in fact and experience, as the great, the incomparable Harrington has most abundantly demonstrated in his *Oceana*, and other divine writings, that Empire follows the balance of property: 'Tis also certain that property in fact generally confers power, tho' the possessor of it may not have much more wit than a mole or a musquash. And this is too often the cause, that riches are sought after, without the least concern about the right application of them. But is the fault in the riches, or the general law of nature, or the unworthy possessor? It will never follow from all this, that government is rightfully founded on property, alone. What shall we say then? Is not government founded on grace? No. Nor on force? No. Nor on compact? Nor property? Not altogether on either. Has it any solid foundation? any chief corner stone, but what accident, chance

or confusion may lay one moment and destroy the next? I think it has an everlasting foundation in the unchangeable will of God, the author of nature, whose laws never vary. The same omniscient, omnipotent, infinitely good and gracious Creator of the universe, who has been pleased to make it necessary that what we call matter should gravitate, for the celestial bodies to roll round their axes, dance their orbits and perform their various revolutions in that beautiful order and concert, which we all admire, has made it equally necessary that from Adam and Eve to these degenerate days, the different sexes should sweetly attract each other, form societies of single families, of which larger bodies and communities are as naturally, mechanically, and necessarily combined, as the dew of Heaven and the soft distilling rain is collected by the all enlivening heat of the sun. Government is therefore most evidently founded on the necessities of our nature. It is by no means an arbitrary thing, depending merely on compact or human will for its existence.

[p. 30] 'The natural liberty of man is to be free from any superior power on earth, and not to be under the will or legislative authority of man, but only to have the law of nature for his rule.' This is the liberty of independent states; this is the liberty of every man out of society, and who has a mind to live so; which liberty is only abridged in certain instances, not lost to those who are born in or voluntarily enter into society: this gift of God cannot be annihilated.

The Colonists being men, have a right to be considered as equally entitled to all the rights of nature with the Europeans, and they are not to be restrained in the exercise of any of these rights, but for the evident good of the whole community. By being or becoming members of society, they have not renounced their natural liberty in any greater degree than other good citizens, and if 'tis taken from them without their consent, they are so far enslaved.

[p. 32] I also lay it down as one of the first principles from whence I intend to deduce the civil rights of the British colonies that all of them are subject to, and dependent on Great Britain: and that therefore as over subordinate governments, the Parliament of Great Britain has an undoubted power and lawful authority to make Acts for the general good, that by naming them, shall and ought to be equally binding, as upon the subjects of Great Britain within the realm. This principle,

I presume, will be readily granted on the other side the Atlantic. It has been practised upon for twenty years to my knowledge, in the province of the Massachusetts-Bay: and I have ever received it, that it has been so from the beginning, in this and the sister provinces, thro' the continent.

[p. 39] The power of Parliament is uncontrollable, but by themselves, and we must obey. They only can repeal their own Acts. There would be an end of all government, if one or a number of subjects or subordinate provinces should take upon them so far to judge of the justice of an Act of Parliament, as to refuse obedience to it. If there was nothing else to restrain such a step, prudence ought to do it, for forcibly resisting the Parliament and the King's laws, is high treason. Therefore let the Parliament lay what burthens they please on us, we must, it is our duty to submit and patiently bear them, till they will be pleased to relieve us. And 'tis to be presumed the wisdom and justice of that august assembly, always will afford us relief by repealing such Acts, as through mistake, or other human infirmities, have been suffered to pass, if they can be convinced that their proceedings are not constitutional, or not for the common good. . . .

[p. 41] Reasons may be given, why an Act ought to be repeal'd, and yet obedience must be yielded to it till that repeal takes place. If the reasons that can be given against an Act are such as plainly demonstrate that it is against natural equity, the executive courts will adjudge such Act void. It may be questioned by some, tho' I make no doubt of it, whether they are not obliged by their oaths to adjudge such Act void. . . .

[p. 42] I cannot but observe here, that if the Parliament have an equitable right to tax our trade, 'tis indisputable that they have as good an one to tax the lands, and everything else. . . . There is no foundation for the distinction some make in England, between an internal and an external tax on the colonies. By the first is meant a tax on trade, by the latter a tax on land, and the things on it. A tax on trade is either a tax of every man in the province, or 'tis not. If 'tis not a tax on the whole, 'tis unequal and unjust, that a heavy burden should be laid on the trade of the colonies, to maintain an army of soldiers, custom-house officers, and fleets of guard-ships; all which, the incomes of both trade and land would not furnish

means to support so lately as the last war, when all was at stake, and the colonies were reimbursed in part by Parliament. How can it be supposed that all of a sudden the trade of the colonies alone can bear all this terrible burden. The late acquisitions in America, as glorious as they have been, and as beneficial as they are to Great-Britain, are only a security to these colonies against the ravages of the French and Indians. Our trade upon the whole is not, I believe, benefited by them one groat. . . .

[p. 47] To say the Parliament is absolute and arbitrary is a contradiction. The Parliament cannot make 2 and 2, 5: Omnipotency cannot do it. The supreme power in a state is *ius dicere* only:—*ius dare*, strictly speaking, belongs alone to God. Parliaments are in all cases to declare what is for the good of the whole; but it is not the declaration of Parliament that makes it so: There must be in every instance a higher authority, viz. God. Should an Act of Parliament be against any of His natural laws, which are immutably true, their declaration would be contrary to eternal truth, equity, and justice, and consequently void: and so it would be adjudged by the Parliament itself, when convinced of their mistake. Upon this great principle, Parliaments repeal such Acts, as soon as they find they have been mistaken, in having declared them to be for the public good, when in fact they were not so. When such mistake is evident and palpable, as in the instances in the appendix, the judges of the executive courts have declared the Act 'of a whole Parliament void'. See here the grandeur of the British constitution! See the wisdom of our ancestors! The supreme legislative, and the supreme executive, are a perpetual check and balance to each other. If the supreme executive errs, it is informed by the supreme legislative in Parliament: If the supreme legislative errs, it is informed by the supreme executive in the King's courts of law. Here, the King appears, as represented by his judges, in the highest lustre and majesty, as supreme executor of the Commonwealth; and he never shines brighter, but on his throne, at the head of the supreme legislative. This is government! This is a constitution! to preserve which, either from foreign or domestic foes, has cost oceans of blood and treasure in every age; and the blood and the treasure have upon the whole been well spent.

[p. 62] Sometimes we have been considered only as the corporations in England; and it may be urged that it is no harder upon us to be taxed by Parliament for the general cause than for them, who besides are at the expence of their corporate subordinate government. I answer, (1) those corporations are represented in Parliament; (2) the colonies are and have been at great expence in raising men, building forts, and supporting the King's civil government here. Now I read of no governors and other officers of His Majesty's nomination, that the city of London taxes its inhabitants to support; I know of no forts and garrisons that the city of London has lately built at its own expence, or of any annual levies that they have raised for the King's service and the common cause. These are things very fitting and proper to be done by a subordinate dominion, and 'tis their duty to do all they are able; but it seems but equal they should be allowed to assess the charges of it themselves. The rules of equity and the principles of the constitution seem to require this. Those who judge of the constitutional rights that subsist between a supreme and subordinate state of dominion, by no higher rules than are applied to a corporation of button-makers, will never have a very comprehensive view of them. . . .

[p. 64] The sum of my argument is, that civil government is of God: that the administrators of it were originally the whole people: that they might have devolved it on whom they pleased: that this devolution is fiduciary, for the good of the whole; that by the British constitution, this devolution is on the King, lords and commons, the supreme, sacred and uncontrollable legislative power, not only in the realm, but thro' the dominions: that by the abdication, the original compact was broken to pieces: that by the revolution, it was renewed, and more firmly established, and the rights and liberties of the subjects in all parts of the dominions more fully explained and confirmed: that in consequence of this establishment, and the Acts of Succession and Union, His Majesty George III is rightful king and sovereign, and with his Parliament, the supreme legislative of Great Britain, France, and Ireland, and the dominions thereto belonging: that this constitution is the most free one, and by far the best, now existing on earth: that by this constitution, every man in the dominions is a free man: that no parts of His Majesty's dominions can be taxed without their consent: that every

part has a right to be represented in the supreme or some subordinate legislature: that the refusal of this would seem to be a contradiction in practice to the theory of the constitution: that the colonies are subordinate dominions, and are now in such a state, as to make it best for the good of the whole, that they should not only be continued in the enjoyment of subordinate legislation, but be also represented in some proportion to their number and estates, in the grand legislature of the nation: that this would firmly unite all parts of the British empire, in the greatest peace and prosperity; and render it invulnerable and perpetual.

A REMONSTRANCE FROM THE PENNSYLVANIA FRONTIER¹

13 February 1764

To the Honourable John Penn, Esquire, Governor of the Province of *Pennsylvania* and of the Counties of *New Castle, Kent, and Sussex*, on *Delaware*, and to the Representatives of the Freemen of the said Province, in General Assembly met:

WE, Matthew Smith and James Gibson, in behalf of ourselves and His Majesty's faithful and loyal subjects, the inhabitants of the frontier counties of Lancaster, York, Cumberland, Berks, and Northampton, humbly beg leave to remonstrate and to lay before you the following grievances, which we submit to your wisdom for redress.

I. We apprehend that as freemen and English subjects, we have an indisputable title to the same privileges and immunities with His Majesty's other subjects who reside in the interior counties of Philadelphia, Chester, and Bucks, and therefore ought not to be excluded from an equal share with them in the very important privilege of legislation. Nevertheless, contrary to the Proprietor's Charter and the acknowledged principles of common justice and equity, our five counties are restrained

¹ *A Declaration and Remonstrance of the distressed and bleeding Frontier Inhabitants of the Province of Pennsylvania, . . . shewing the Causes of their late Discontent and the Grievances under which they have laboured.* [Philadelphia], 1764, pp. 10-18 (copy in New York Historical Society). Also printed in *Minutes of the Provincial Council of Pennsylvania* (often cited as *Colonial Records of Pennsylvania*), ix. 138-42.

from electing more than ten representatives, viz., four for Lancaster, two for York, two for Cumberland, one for Berks, and one for Northampton; while the three counties (and city) of Philadelphia, Chester, and Bucks, elect twenty-six. This we humbly conceive is oppressive, unequal, and unjust, the cause of many of our grievances, and an infringement of our natural privileges of freedom and equality; wherefore we humbly pray that we may be no longer deprived of an equal number with the three aforesaid counties, to represent us in Assembly.

2. We understand that a bill is now before the House of Assembly, wherein it is provided that such persons as shall be charged with killing any Indians in Lancaster County, shall not be tried in the county where the fact was committed, but in the counties of Philadelphia, Chester, or Bucks. This is manifestly to deprive British subjects of their known privileges, to cast an eternal reproach upon whole counties, as if they were unfit to serve their country in the quality of jurymen, and to contradict the well-known laws of the British nation in a point whereon life, liberty, and security essentially depend, namely, that of being tried by their equals in the neighborhood where their own, their accusers', and the witnesses' character and credit, with the circumstances of the fact, are best known, and instead thereof putting their lives in the hands of strangers who may as justly be suspected of partiality to, as the frontier counties can be of prejudices against Indians; and this, too, in favour of Indians only, against His Majesty's faithful and loyal subjects. Besides, it is well known that the design of it is to comprehend a fact¹ committed before such a law was thought of. And if such practices were tolerated, no man could be secure in his most valuable interests. We are also informed to our great surprize, that this bill has actually received the assent of a majority of the House, which we are persuaded could not have been the case had our frontier counties been equally represented in Assembly. However, we hope that the Legislature of this Province will never enact a law of so dangerous a tendency, or take away from His Majesty's good subjects a privilege so long esteemed sacred by Englishmen.

3. During the late and present Indian wars, the frontiers of this Province have been repeatedly attacked and ravaged by

¹ The Conestogo massacre. See Introduction.

skulking parties of the Indians, who have with the most savage cruelty murdered men, women, and children without distinction, and have reduced near a thousand families to the most extrem distress. It grieves us to the very heart to see such of our frontier inhabitants as have escaped savage fury with the loss of their parents, their children, their wives or relatives, left destitute by the public, and exposed to the most cruel poverty and wretchedness while upwards of an hundred and twenty of the savages who are with great reason suspected of being guilty of these horrid barbarities under the mask of friendship, have procured themselves to be taken under the protection of the government, with a view to elude the fury of the brave relatives of the murdered, and are now maintained at the public expence. Some of these Indians now in the barracks of Philadelphia, are confessedly a part of the Wyalusing Indians, which tribe is now at war with us, and the others are the Moravian Indians, who, living amongst us under the cloak of friendship, carried on a correspondence with our known enemies on the Great Island. We cannot but observe with sorrow and indignation that some persons in this Province are at pains to extenuate the barbarous cruelties practised by these savages on our murdered brethren and relatives, which are shocking to human nature, and must pierce every heart but that of the hardened perpetrators or their abettors, nor is it less distressing to hear others pleading that although the Wyalusing tribe is at war with us, yet that part of it which is under the protection of the government may be friendly to the English and innocent. In what nation under the sun was it ever the custom that when a neighboring nation took up arms, not an individual should be touched but only the persons that offered hostilities? Who ever proclaimed war with a part of a nation, and not with the whole? Had these Indians disapproved of the perfidy of their tribe, and been willing to cultivate and preserve friendship with us, why did they not give notice of the war before it happened, as it is known to be the result of long deliberations, and a preconcerted combination amongst them? Why did they not leave their tribe immediately, and come amongst us before there was ground to suspect them, or was actually waged with their tribe? No, they stayed amongst them, were privy to their murders and ravages, until we had destroyed their provisions; and when they could no longer subsist at home, they come not as deserters, but as

friends to be maintained through the winter, that they may be able to scalp and butcher us in the spring.

And as to the Moravian Indians,¹ there are strong grounds at least to suspect their friendship, as it is known they carried on a correspondence with our enemies on the Great Island. We killed three Indians going from Bethlehem to the Great Island with blankets, ammunition, and provisions, which is an undeniable proof that the Moravian Indians were in confederacy with our open enemies. And we cannot but be filled with indignation to hear this action of ours painted in the most odious and detestable colours, as if we had inhumanly murdered our guides who preserved us from perishing in the woods, when we only killed three of our known enemies, who attempted to shoot us when we surprized them. And besides all this, we understand that one of these very Indians is proved by the oath of Stenton's widow, to be the very person that murdered her husband. How then comes it to pass that he alone, of all the Moravian Indians, should join with the enemy to murder that family? Or can it be supposed that any enemy Indians, contrary to their known custom of making war, should penetrate into the heart of a settled country to burn, plunder and murder the inhabitants, and not molest any houses in their return, or ever be seen or heard of? Or how can we account for it, that no ravages have been committed in Northampton County, since the removal of the Moravian Indians, when the Great Cove has been struck since? These things put it beyond doubt with us that the Indians now at Philadelphia are His Majesty's perfidious enemies, and therefore to protect and maintain them at the public expence, while our suffering brethren on the frontiers are almost destitute of the necessaries of life and are neglected by the public, is sufficient to make us mad with rage, and tempt us to do what nothing but the most violent necessity can vindicate. We humbly and earnestly pray, therefore, that those enemies of His Majesty may be removed as soon as possible out of the Province.

4. We humbly conceive that it is contrary to the maxims of good policy, and extremely dangerous to our frontiers, to

¹ The Moravian Indians were an Algonkian tribe converted to Christianity, pacifism, and agriculture by German Moravian missionaries. Their pathetic attempts to keep neutral between their savage brethren and the backwoodsmen, and their eventual extermination by the latter, are described in *Roosevelt's Winning of the West*.

suffer any Indians of what tribe soever to live within the inhabited parts of this Province while we are engaged in an Indian war; as experience has taught us that they are all perfidious, and their claim to freedom and independency puts it in their power to act as spies, to entertain and give intelligence to our enemies, and to furnish them with provisions and warlike stores. To this fatal intercourse between our pretended friends and open enemies, we must ascribe the greatest of the ravages and murders that have been committed in the course of this and the last Indian war. We therefore pray that this grievance be taken under consideration and remedied.

5. We cannot help lamenting that no provision has been hitherto made, that such of our frontier inhabitants as have been wounded in defence of the Province, their lives and liberties, may be taken care of and cured of their wounds at the publick expence. We therefore pray that this grievance may be redressed.

6. In the late Indian war this Province, with others of His Majesty's Colonies, gave rewards for Indian scalps, to encourage the seeking them in their own country, as the most likely means of destroying or reducing them to reason; but no such encouragement has been given in this war, which has damped the spirits of many brave men who are willing to venture their lives in parties against the enemy. We therefore pray that public rewards may be proposed for Indian scalps, which may be adequate to the dangers attending enterprises of this nature.

7. We daily lament that numbers of our nearest and dearest relatives are still in captivity among the savage heathen, to be trained up in all their ignorance and barbarity, or to be tortured to death with all the contrivances of Indian cruelty, for attempting to make their escape from bondage. We see they pay no regard to the many solemn promises which they have made to restore our friends who are in bondage amongst them. We therefore earnestly pray that no trade may hereafter be permitted to be carried on with them, until our brethren and relatives are brought home to us.

8. We complain that a certain Society¹ of people in this Province, in the late Indian war, and at several treaties held by the King's representatives, openly loaded the Indians with presents, and that J. P., a leader of the said Society, in defiance

¹ The Society of Friends.

of all government, not only abetted our Indian enemies, but kept up a private intelligence with them, and publicly received from them a belt of wampum, as if he had been our Governor or authorized by the King to treat with his enemies. By this means the Indians have been taught to despise us as a weak and disunited people, and from this fatal source have arose many of our calamities under which we groan. We humbly pray therefore that this grievance may be redressed, and that no private subject be hereafter permitted to treat with, or carry on a correspondence with our enemies.

9. We cannot but observe with sorrow that Fort Augusta, which has been very expensive to this Province, has afforded us but little assistance during this or the last war. The men that were stationed at that place neither helped our distressed inhabitants to save their crops, nor did they attack our enemies in their towns, or patrole on our frontiers. We humbly request that proper measures may be taken to make that garrison more serviceable to us in our distress, if it can be done.

N.B. We are far from intending any reflection against the Commanding Officer stationed at Augusta, as we presume his conduct was always directed by those from whom he received his orders.

SIGNED on behalf of ourselves, and by appointment of a great number of the frontier inhabitants.

MATTHEW SMITH.
JAMES GIBSON.

February 13th, 1764.

THE VIRGINIA RESOLVES ON THE STAMP ACT

30 May 1765

I. PATRICK HENRY'S SPEECH INTRODUCING THE RESOLVES

(a) *From the contemporary diary of a French traveller.*¹

May the 30th. Set out early from half-way house in the chair and broke fast at York, arrived at Williamsburg at 12,

¹ This diary, which was recently discovered in the Archives de la Marine, Paris, is printed in the *American Historical Review*, xxvi. 726-47, xxvii. 70-89. The writer has not been identified. Apparently he was an agent of the French Government, possibly the Chevalier d'Anne-mour.

where I saw three negroes hanging at the galous for haveing robbed Mr. Waltho of 300 pounds. I went immediately to the Assembly which was setting, where I was entertained with very strong debates concerning dutys that the Parleiment wants to lay on the American colonies, which they call or stile stamp dutys. Shortly after I came in, one of the members stood up and said he had read that in former times Tarquin and Julius had their Brutus, Charles had his Cromwell, and he did not doubt but some good American would stand up in favour of his Country; but (says he) in a more moderate manner, and was going to continue, when the Speaker of the House rose and, said he, the last that stood up had spoke treason, and was sorry to see that not one of the members of the House was loyal enough to stop him before he had gone so far. Upon which the same member stood up again (his name is Henery) and said that if he had affronted the Speaker or the House, he was ready to ask pardon, and he would shew his loyalty to His Majesty King George the third at the expence of the last drop of his blood; but what he had said must be attributed to the interest of his country's dying liberty which he had at heart, and the heat of passion might have lead him to have said something more than he intended; but, again, if he said any thing wrong, he begged the Speaker and the House's pardon. Some other members stood up and backed him, on which that affaire was dropped.

May the 31th. I returned to the Assembly to-day, and heard very hot debates stil about the stamp dutys. The whole House was for entering resolves on the records but they differed much with regard the contents or purport thereof. Some were for shewing their resentment to the highest. One of the resolves that these proposed, was that any person that would offer to sustain that the Parleiment of England had a right to impose or lay any tax or dutys whatsoever on the American colonies, without the consent of the inhabitants therof, should be looked upon as a traitor, and deemed an enemy to his country: there were some others to the same purpose, and the majority was for entering these resolves: upon which the Governor dissolved the Assembly, which hinderd their proceeding.

(b) *From a private letter from Virginia, dated 21 June 1765.*¹

Mr. — has lately blazed out in the Assembly, where he compared — to a Tarquin, a Caesar, a Charles the First, threatening him with a Brutus, or an Oliver Cromwell; yet Mr. — was not sent to the Tower: but having prevailed to get some ridiculous violent Resolves passed, rode off in triumph.

(c) *From John Burk's History of Virginia, 1805.*²

'Caesar', said he, 'had his Brutus, Charles his Cromwell, and (pausing) George the third (here a cry of treason, treason was heard, supposed to issue from the chair, but with admirable presence of mind he proceeded) may profit by their examples. Sir, if this be treason', continued he, 'make the most of it.'

(d) *From William Wirt's Life of Patrick Henry, 1817.*³

It was in the midst of this magnificent debate, while he was descanting on the tyranny of the obnoxious Act, that he exclaimed, in a voice of thunder, and with the look of a god, 'Caesar had his Brutus—Charles the first, his Cromwell—and George the third—("Treason," cried the Speaker—"treason, treason", echoed from every part of the House.— It was one of those trying moments which is decisive of character.—Henry faltered not an instant: but rising to a loftier attitude, and fixing on the Speaker an eye of the most determined fire, he finished his sentence with the firmest emphasis) *may profit by their example.* If this be treason, make the most of it.'

I had frequently heard the above anecdote of the cry of treason, but with such variations of the concluding words, that I began to doubt whether the whole might not be fiction. With a view

¹ Quoted in *Amer. Hist. Rev.*, xxvi. 727, from the *London Gazetteer*, 13th August 1765.

² iii. 309. Burk also gives a version of the entire speech, which Henry's biographers believe to be apocryphal. A manuscript History of Virginia by Edmund Randolph, written just before or just after Burk, gives the following version of Henry's retort: "'Treason, sir," exclaimed the Speaker: to which Mr. Henry instantly replied, "and George the Third, may he never have either."

³ Text from the second edition, Philadelphia, 1818, p. 65. The matter in smaller type is Wirt's foot-note. Both Tyler and Jefferson heard Henry's speech.

to ascertain the truth, therefore, I submitted it to Mr. Jefferson, as it had been given to me by Judge Tyler, and this is his answer. 'I well remember the cry of treason, the pause of Mr. Henry at the name of George the Third and the presence of mind with which he closed his sentence, and baffled the charge vociferated.' The incident, therefore, becomes authentic history.

2. THE RESOLVES¹

Resolved, That the first adventurers and settlers of this His Majesty's Colony and Dominion of Virginia brought with them, and transmitted to their posterity, and all other His Majesty's subjects since inhabiting in this His Majesty's said Colony, all the liberties, privileges, franchises, and immunities, that have at any time been held, enjoyed, and possessed, by the people of Great Britain.

Resolved, That by two royal charters, granted by King James the First, the colonists aforesaid are declared entitled to all liberties, privileges, and immunities of denizens and natural subjects, to all intents and purposes, as if they had been abiding and born within the realm of England.

Resolved, That the taxation of the people by themselves, or by persons chosen by themselves to represent them, who can only know what taxes the people are able to bear, or the easiest method of raising them, and must themselves be affected by every tax laid on the people, is the only security against a burthensome taxation, and the distinguishing characteristic of British freedom, without which the ancient constitution cannot exist.

Resolved, That His Majesty's liege people of this his most ancient and loyal Colony have without interruption enjoyed the inestimable right of being governed by such laws, respecting their internal polity and taxation, as are derived from their own consent, with the approbation of their sovereign, or his substitute; and that the same hath never been forfeited, or yielded up, but hath been constantly recognized by the kings and people of Great Britain.

Resolved therefore, That the General Assembly of this Colony have the only and sole exclusive right and power to lay taxes

¹ *Journals of the House of Burgesses of Virginia, 1761-5* (J. P. Kennedy, ed. Richmond, 1907), pp. 360, lxvii, and frontispiece. The last two resolves were certainly not, and the fifth probably not, passed by the Assembly; but all seven were published in the newspapers of Boston and elsewhere. See *Amer. Hist. Rev.* xxvi. 746, note.

and impositions upon the inhabitants of this Colony, and that every attempt to vest such power in any person or persons whatsoever other than the General Assembly aforesaid has a manifest tendency to destroy British as well as American freedom.

Resolved, That His Majesty's liege people, the inhabitants of this Colony, are not bound to yield obedience to any law or ordinance whatever, designed to impose any taxation whatsoever upon them, other than the laws or ordinances of the General Assembly aforesaid.

Resolved, That any person who shall, by speaking or writing, assert or maintain that any person or persons other than the General Assembly of this Colony, have any right or power to impose or lay any taxation on the people here, shall be deemed an enemy to His Majesty's Colony.

SOAME JENYNS'S 'OBJECTIONS CONSIDER'D'

The Objections to the Taxation of our American Colonies by the Legislature of Great Britain, briefly consider'd
London, 1765.

THE right of the Legislature of Great Britain to impose taxes on her American colonies, and the expediency of exerting that right in the present conjuncture, are propositions so indisputably clear that I should never have thought it necessary to have undertaken their defence, had not many arguments been lately flung out both in papers and conversation, which with insolence equal to their absurdity deny them both. As these are usually mixt up with several patriotic and favorite words such as liberty, property, Englishmen, etc., which are apt to make strong impressions on that more numerous part of mankind who have ears but no understanding, it will not, I think, be improper to give them some answers. To this, therefore, I shall singly confine myself, and do it in as few words as possible, being sensible that the fewest will give least trouble to myself, and probably most information to my reader.

The great capital argument which I find on this subject, and which, like an elephant at the head of a Nabob's army,

¹ Soame Jenyns, the minor poet and M.P. for Dunwich, was a member of the Board of Trade and Plantations when he wrote this pamphlet.

being once overthrown must put the whole into confusion, is this; that no Englishman is, or can be taxed, but by his own consent: by which must be meant one of these three propositions; either that no Englishman can be taxed without his own consent as an individual; or that no Englishman can be taxed without the consent of the persons he chuses to represent him; or that no Englishman can be taxed without the consent of the majority of all those who are elected by himself and others of his fellow subjects to represent them. Now let us impartially consider whether any one of these propositions are in fact true: if not, then this wonderful structure which has been erected upon them falls at once to the ground, and like another Babel, perishes by a confusion of words, which the builders themselves are unable to understand.

First then, that no Englishman is or can be taxed but by his own consent as an individual: this is so far from being true, that it is the very reverse of truth; for no man that I know of is taxed by his own consent, and an Englishman, I believe, is as little likely to be so taxed as any man in the world.

Secondly, that no Englishman is or can be taxed but by the consent of those persons whom he has chose to represent him. For the truth of this I shall appeal only to the candid representatives of those unfortunate counties which produce cyder, and shall willingly acquiesce under their determination.¹

Lastly, that no Englishman is or can be taxed without the consent of the majority of those who are elected by himself and others of his fellow subjects to represent them. This is certainly as false as the other two; for every Englishman is taxed, and not one in twenty represented: copyholders, leaseholders, and all men possessed of personal property only, chuse no representatives; Manchester, Birmingham, and many more of our richest and most flourishing trading towns send no members to Parliament, consequently cannot consent by their representatives, because they chuse none to represent them; yet are they not Englishmen } or are they not taxed?

I am well aware that I shall hear Lock, Sidney, Selden, and many other great names quoted to prove that every Englishman, whether he has a right to vote for a repre-

¹ A reference to the unpopular cider tax of 1764.

sentative or not, is still represented in the British Parliament, in which opinion they all agree. On what principle of commonsense this opinion is founded I comprehend not, but on the authority of such respectable names I shall acknowledge its truth; but then I will ask one question, and on that I will rest the whole merits of the cause. Why does not this imaginary representation extend to America as well as over the whole Island of Great Britain? If it can travel three hundred miles, why not three thousand? if it can jump over rivers and mountains, why cannot it sail over the ocean? If the towns of Manchester and Birmingham, sending no representatives to Parliament, are notwithstanding there represented, why are not the cities of Albany and Boston equally represented in that Assembly? Are they not alike British subjects? are they not Englishmen? or are they only Englishmen when they solicit for protection, but not Englishmen when taxes are required to enable this country to protect them?

But it is urged that the colonies are by their charters placed under distinct Governments each of which has a legislative power within itself, by which alone it ought to be taxed; that if this privilege is once given up, that liberty which every Englishman has a right to, is torn from them, they are all slaves, and all is lost.

The liberty of an Englishman is a phrase of so various a signification, having within these few years been used as a synonymous term for blasphemy, bawdy, treason, libels, strong beer, and cyder, that I shall not here presume to define its meaning; but I shall venture to assert what it cannot mean; that is, an exemption from taxes imposed by the authority of the Parliament of Great Britain; nor is there any charter that ever pretended to grant such a privilege to any colony in America; and had they granted it, it could have had no force; their charters being derived from the Crown, and no charter from the Crown can possibly supersede the right of the whole legislature. Their charters are undoubtedly no more than those of all corporations, which empower them to make bye-laws, and raise duties for the purposes of their own police, for ever subject to the superior authority of Parliament; and in some of their charters the manner of exercising these powers is specified in these express words, 'according to the course of other corporations

in Great Britain'. And therefore they can have no more pretence to plead an exemption from this parliamentary authority, than any other corporation in England.

It has been moreover alledged, that though Parliament may have power to impose taxes on the colonies, they have no right to use it, because it would be an unjust tax; and no supreme or legislative power can have a right to enact any law in its nature unjust. To this, I shall only make this short reply, that if Parliament can impose no taxes but what are equitable, and if the persons taxed are to be the judges of that equity, they will in effect have no power to lay any tax at all. No tax can be imposed exactly equal on all, and if it is not equal it cannot be just, and if it is not just, no power whatever can impose it; by which short syllogism all taxation is at end; but why it should not be used by Englishmen on this side the Atlantic as well as by those on the other, I do not comprehend.

Thus much for the right. Let us now a little inquire into the expediency of this measure, to which two objections have been made; that the time is improper, and the manner wrong.

As to the first, can any time be more proper to require some assistance from our colonies, to preserve to themselves their present safety, than when this country is almost undone by procuring it? Can any time be more proper to impose some tax upon their trade, than when they are enabled to rival us in our manufactures, by the encouragement and protection which we have given them? Can any time be more proper to oblige them to settle handsome incomes on their Governors, than when we find them unable to procure a subsistence on any other terms than those of breaking all their instructions, and betraying the rights of their sovereign? Can there be a more proper time to compel them to fix certain salaries on their judges, than when we see them so dependent on the humours of their Assemblies, that they can obtain a livelihood no longer than *quam diu se male gesserint*? Can there be a more proper time to force them to maintain an army at their expence, than when that army is necessary for their own protection, and we are utterly unable to support it? Lastly; can there be a more proper time for this mother country to leave off feeding out of her own vitals these children whom she has nursed up, than when they are arrived

at such strength and maturity as to be well able to provide for themselves, and ought rather with filial duty to give some assistance to her distresses?

As to the manner; that is, the imposing taxes on the colonies by the authority of Parliament, it is said to be harsh and arbitrary; and that it would have been more consistent with justice, at least with maternal tenderness, for administration here to have settled quotas on each of the colonies, and have then transmitted them with injunctions that the sums allotted should be immediately raised by their respective legislatures, on the penalty of their being imposed by Parliament in case of their non-compliance. But was this to be done, what would be the consequence? Have their Assemblies shewn so much obedience to the orders of the Crown, that we could reasonably expect that they would immediately tax themselves on the arbitrary command of a minister? Would it be possible here to settle those quotas with justice, or would any one of the colonies submit to them, were they ever so just? Should we not be compared to those Roman tyrants, who used to send orders to their subjects to murder themselves within so many hours, most obligingly leaving the method to their own choice, but on their disobedience threatening a more severe fate from the hands of an executioner? And should we not receive votes, speeches, resolutions, petitions, and remonstrances in abundance, instead of taxes? In short, we either have a right to tax the colonies, or we have not. If Parliament is possessed of this right, why should it be exercised with more delicacy in America than it has ever been even in Great Britain itself? If on the other hand, they have no such right, sure it is below the dignity as well as justice of the Legislature to intimidate the colonies with vain threats, which they have really no right to put in execution.

One method indeed has been hinted at, and but one, that might render the exercise of this power in a British Parliament just and legal, which is the introduction of representatives from the several colonies into that body; but as this has never seriously been proposed, I shall not here consider the impracticability of this method, nor the effects of it if it could be practised; but only say that I have lately seen so many specimens of the great powers of speech of which these American gentlemen are possessed, that I should be much

afraid that the sudden importation of so much eloquence at once, would greatly endanger the safety and government of this country; or in terms more fashionable, though less understood, this our most excellent Constitution. If we can avail ourselves of these taxes on no other condition, I shall never look upon it as a measure of frugality; being perfectly satisfied that in the end it will be much cheaper for us to pay their army than their orators.

I cannot omit taking notice of one prudential reason which I have heard frequently urged against this taxation of the colonies, which is this: That if they are by this means impoverished, they will be unable to purchase our manufactures, and consequently we shall lose that trade from which the principal benefit which we receive from them must arise. But surely, it requires but little sagacity to see the weakness of this argument; for should the colonies raise taxes for the purposes of their own government and protection, would the money so raised be immediately annihilated? What some pay, would not others receive? Would not those who so receive it, stand in need of as many of our manufactures, as those who pay? Was the army there maintained at the expence of the Americans, would the soldiers want fewer coats, hats, shirts, or shoes than at present? Had the judges salaries ascertained to them, would they not have occasion for as costly perriwigs, or robes of as expensive scarlet, as marks of their legal abilities, as they now wear in their present state of dependency? Or had their Governors better incomes settled on them for observing their instructions, than they can now with difficulty obtain for disobeying them, would they expend less money in their several Governments, or bring home at their return less riches to lay out in the manufactories of their native country?

It has been likewise asserted that every shilling which our colonies can raise either by cultivation or commerce, finally centers in this country; and therefore it is argued we can acquire nothing by their taxation, since we can have no more than their all; and whether this comes in by taxes or by trade, the consequence is the same. But allowing this assertion to be true, which it is not, yet the reasoning upon it is glaringly false: for surely it is not the same whether the wealth derived from these colonies flows immediately into the coffers of the public, or into the pockets of individuals

from whence it must be squeezed by various domestic taxes before it can be rendered of any service to the nation. Surely it is by no means the same, whether this money brought in by taxes enables us to diminish part of that enormous debt contracted by the last expensive war, or whether coming in by trade it enables the merchant, by augmenting his influence together with his wealth, to plunge us into new wars and new debts for his private advantage.

From what has been here said, I think that not only the right of the legislature of Great Britain to impose taxes on her colonies, not only the expediency, but the absolute necessity of exercising that right in the present conjuncture, has been so clearly though concisely proved, that it is to be hoped that in this great and important question all parties and factions, or in the more polite and fashionable term, all connections will most cordially unite; that every member of the British Parliament, whether in or out of humour with Administration, whether he has been turned out because he has opposed, or whether he opposes because he has been turned out, will endeavour to the utmost of his power to support this measure. A measure which must not only be approved by every man who has any property or common sense, but which ought to be required by every English subject of an English Administration.

F I N I S

FROM DANIEL DULANY'S 'CONSIDERATIONS' 1

Considerations on the Propriety of imposing Taxes in the British Colonies, for the purpose of Raising a Revenue, by Act of Parliament.

Second edition. Annapolis, 1765.

In the Constitution of England, the three principal forms of government, monarchy, aristocracy, and democracy, are blended together in certain proportions; but each of these orders, in the exercise of the legislative authority, hath its peculiar department from which the other are excluded. In

¹ Dulany was a Maryland lawyer, educated at Eton, Clare, and the Temple. He never changed his position as to the legality of external taxation by Parliament, and eventually became a loyalist.

this division, the granting of supplies or laying taxes is deemed to be the province of the House of Commons, as the representative of the people. All supplies are supposed to flow from their gift; and the other orders are permitted only to assent, or reject generally, not to propose any modification, amendment, or partial alteration of it.

This observation being considered, it will undeniably appear that in framing the late Stamp Act, the Commons acted in the character of representatives of the colonies. They assumed it as the principle of that measure, and the propriety of it must therefore stand or fall as the principle is true or false: for the preamble sets forth that the Commons of Great Britain had resolved to give and grant the several rates and duties imposed by the Act; but what right had the Commons of Great Britain to be thus munificent at the expence of the Commons of America? To give property not belonging to the giver, and without the consent of the owner, is such evident and flagrant injustice in ordinary cases, that few are hardy enough to avow it: and therefore when it really happens, the fact is disguised and varnished over by the most plausible pretences the ingenuity of the giver can suggest. But it is alledged that there is a *virtual*, or *implied representation* of the colonies springing out of the Constitution of the British Government. And it must be confessed on all hands, that as the representation is not actual, it is virtual, or it doth not exist at all; for no third kind of representation can be imagined. The colonies claim the privilege which is common to all British subjects, of being taxed only with their own consent given by their representatives, and all the advocates for the Stamp Act admit this claim. Whether therefore . . . the imposition of the stamp duties is a proper exercise of constitutional authority or not, depends upon the single question, whether the Commons of Great Britain are *virtually* the representatives of the Commons of America or not.

The advocates for the Stamp Act admit in express terms, that 'the colonies do not chuse members of Parliament', but they assert that 'the colonies are virtually represented in the same manner with the non-electors resident in Great Britain'.

How have they proved this position? Where have they defined, or precisely explained what they mean by the expression, *virtual representation*?

They argue, that 'the right of election being annexed to certain species of property, to franchises, and inhabitancy in some particular places, a very small part of the land, the property, and the people of England, is comprehended in those descriptions. All landed property not freehold, and all monied property are excluded. The merchants of London, the proprietors of the public funds, the inhabitants of Leeds, Halifax, Birmingham, and Manchester, and that great corporation of the East India Company, none of them chose their representatives, and yet are they all represented in Parliament, and the colonies being exactly in their situation, are represented in the same manner.'

The notion of a *virtual representation* of the colonies . . . is a mere cob-web, spread to catch the unwary, and intangle the weak. I would be understood. I am upon a question of propriety, not of power; and, though some may be inclined to think it is to little purpose to discuss the one, when the other is irresistible, yet are they different considerations; and, at the same time that I invalidate the claim upon which it is founded, I may very consistently recommend a submission to the law, whilst it endures. . . .

Lessees for years, copyholders, proprietors of the public funds, inhabitants of Birmingham, Leeds, Halifax, and Manchester, merchants of the City of London, or members of the corporation of the East India Company, are, *as such*, under no personal incapacity to be electors; for they may acquire the right of election, and there are actually not only a considerable number of electors in each of the classes of lessees for years, &c., but in many of them, if not all, even members of Parliament. The interests therefore of the non-electors, the electors, and the representatives, are individually the same; to say nothing of the connection among neighbours, friends, and relations. The security of the non-electors against oppression, is that their oppression will fall also upon the electors and the representatives. The one can't be injured, and the other indemnified.

Further, if the non-electors should not be taxed by the British Parliament, they would not be taxed at all; and it would be iniquitous, as well as a solecism in the political system, that they should partake of all the benefits resulting from the imposition and application of taxes, and derive an

immunity from the circumstance of not being qualified to vote. Under this Constitution then, a double or virtual representation may be reasonably supposed. The electors, who are inseparably connected in their interests with the non-electors, may be justly deemed to be the representatives of the non-electors, at the same time they exercise their personal privilege in their right of election, and the members chosen, therefore, the representatives of both. This is the only rational explanation of the expression, *virtual representation*. . . .

It is an essential principle of the English Constitution that the subject shall not be taxed without his consent, which hath not been introduced by any particular law, but necessarily results from the nature of that mixed Government; for without it the order of democracy could not exist.

[p. 10]. There is not that intimate and inseparable relation between the electors of Great Britain and the inhabitants of the colonies which must inevitably involve both in the same taxation; on the contrary, not a single actual elector in England might be immediately affected by a taxation in America, imposed by a statute which would have a general operation and effect upon the properties of the inhabitants of the colonies. The latter might be oppressed in a thousand shapes, without any sympathy, or exciting any alarm in the former. Moreover, even Acts oppressive and injurious to the colonies in an extreme degree might become popular in England, from the promise or expectation that the very measures which depressed the colonies, would give ease to the inhabitants of Great Britain. It is indeed true that the interests of England and the colonies are allied, and an injury to the colonies produced into all its consequences, will eventually affect the mother-country; yet these consequences being generally remote, are not at once foreseen, they do not immediately alarm the fears and engage the passions of the English electors; the connection between a freeholder of Great Britain and a British-American being deducible only through a train of reasoning which few will take the trouble . . . to investigate; wherefore a relation between the British Americans and the English electors is a knot too infirm to be relied on. . . .

[p. 13. In answer to the argument that the colonies are no more than common corporations, and no more entitled to exemption from parliamentary taxation, than London.]

The colonies have a complete and adequate legislative authority, and are not only represented in their Assemblies, but in no other manner. The power of making bye-laws vested in the Common Council is inadequate and incomplete, being bounded by a few particular subjects; and the Common Council are actually represented too, by having a choice of members to serve in Parliament. How then can the reason of the exemption from internal parliamentary taxation claimed by the colonies, apply to the citizens of London?

The power described in the provincial charters is to make laws, and in the exercise of that power the colonies are bounded by no other limitations than what result from their subordination to and dependence upon Great Britain. The term bye-laws is as novel and improper when applied to the Assemblies, as the expression Acts of Assembly would be, if applied to the Parliament of Great Britain, and it is as absurd and insensible to call a colony a common corporation, because not an independant kingdom, . . . as it would be to call Lake Erie a duck-puttle, because not the Atlantic Ocean.

The Colonies are dependent upon *Great Britain*, and the supreme Authority vested in the King, Lords, and Commons, may justly be exercised to secure, or preserve their dependence, whenever necessary for that Purpose. This Authority results from, and is implied in the idea of the relation subsisting between England and her Colonies. . . . In what the superior may rightfully controul or compel, and in what the inferior ought to be at liberty to act without controul or compulsion, depends upon the nature of the dependence, and the degree of the subordination: and, these being ascertained, the measure of obedience and submission, and the extent of the authority and superintendence, will be settled. When powers, compatible with the relation between the superior and inferior, have, by express Compact, been granted to and accepted by the latter, and have been, after that Compact, repeatedly recognized by the former;—when they may be exercised effectually upon every occasion without any injury to that relation, the authority of the superior can't properly interpose: for by the powers vested in the inferior, is the superior limited.

[p. 26]

The truth is that a vast revenue arises to the British nation from taxes paid by the colonies in *Great Britain*, and even the most ignorant British cottager, not imposed upon by infamous misrepresentation, must perceive that it is of no consequence to his ease and relief, whether the duties raised upon America are paid there, and thence afterwards remitted to Great Britain, or paid at first upon the produce of the colonies in Great Britain.

In the article of tobacco, for instance, the planter pays a tax upon that produce of his land and labour consumed in Great Britain, more than six times the clear sum received by him for it, besides the expences of freight, commission, and other charges, and double freight, commission and charges upon the tobacco re-exported, by which the British merchants, mariners, and other British subjects are supported—a tax at least equal to what is paid by any farmer of Great Britain, possessed of the same degree of property; and moreover the planter must contribute to the support of the extensive internal Government of the colony in which he resides.

Is it objected that the duties charged upon tobacco fall ultimately upon the consumers of this commodity in the consequential price set upon it? Be it so, and let the principle be established that all taxes upon a commodity are paid by the consumers of it, and the consequence of this principle be fairly drawn and equally applied.

The British consumers, therefore, ultimately pay the high duties laid upon tobacco, in proportion to the quantity of that commodity which they consume. The colonies therefore, in proportion to their consumption of British manufactures, pay also the high duties of custom and excise with which the manufacturers are charged in the consequential price set upon their consumptions. In their passage, moreover, from the British manufacturers to the American importers, the commodities go thro' a great many hands, by which their costs are enhanced; the factors, the carriers, the shopkeepers, the merchants, the brokers, the porters, the watermen, the mariners and others, have their respective profits, from which they derive their subsistence and the support of their families, and are enabled to pay the high duties of customs and excise in the price of their consumptions.

The policy of the late regulations of the colonies is of the same character with their justice and lenity. The produce

of their lands, the earnings of their industry, and the gains of their commerce, center in Great Britain, support the artificers, the manufactories, and navigation of the nation, and with them the British landholders too.

[p. 34]
It appears to me that there is a clear and necessary distinction between an Act imposing a tax for the *single purpose of revenue*, and those Acts which have been made for the *regulation of trade*, and have produced some revenue in consequence of their effect and operation as regulations of trade. The colonies claim the privileges of British subjects. It has been proved to be inconsistent with those privileges to tax them without their own consent, and it hath been demonstrated that a tax imposed by Parliament is a tax without their consent.

The subordination of the colonies, and the authority of the Parliament to preserve it, have been fully acknowledged. Not only the welfare, but perhaps the existence of the mother country as an independent kingdom, may rest upon her trade and navigation, and these so far upon her intercourse with the colonies, that if this should be neglected, there would soon be an end to that commerce whence her greatest wealth is derived, and upon which her maritime power is principally founded. From these considerations, the right of the British Parliament to regulate the trade of the colonies, may be justly deduced; a denial of it would contradict the admission of the subordination, and of the authority to preserve it, resulting from the nature of the relation between the mother country and her colonies. It is a common and frequently the most proper method to regulate trade by duties on imports and exports. The authority of the mother country to regulate the trade of the colonies being unquestionable, what regulations are the most proper, are to be of course submitted to the determination of the Parliament; and if an incidental revenue should be produced by such regulations, these are not therefore unwarrantable.

A right to impose an internal tax on the colonies without their consent for the *single purpose of revenue* is denied: a right to regulate their trade without their consent is admitted. The imposition of a duty may, in some instances, be the proper regulation. If the claims of the mother country and the colonies should seem on such an occasion to interfere, and

the point of right to be doubtful (which I take to be otherwise) it is easy to guess that the determination will be on the side of power, and that the inferior will be constrained to submit.

[p. 47]
Any oppression of the colonies would intimate an opinion of them I am persuaded they don't deserve, and their security as well as honour ought to engage them to confute. When contempt is mixed with injustice, and insult with violence, which is the case when an injury is done to him who hath the means of redress in his power; if the injured hath one inflammable grain of honour in his breast, his resentment will invigorate his pursuit of reparation, and animate his efforts to obtain an effectual security against a repetition of the outrage.

If the case supposed should really happen, the resentment I should recommend would be a legal, orderly, and prudent resentment, to be expressed in a zealous and vigorous industry, in an immediate use and unabating application of the advantages we derive from our situation,—a resentment which could not fail to produce effects as beneficial to the mother country as to the colonies, and which a regard to her welfare as well as our own, ought to inspire us with on such an occasion.

The general assemblies would not, I suppose, have it in their power to encourage by laws, the prosecution of this beneficial, this necessary measure; but they might promote it almost as effectually by their example. I have in my younger days seen fine sights, and been captivated by their dazzling pomp and glittering splendor; but the sight of our representatives, all adorned in compleat dresses of their own leather and flax and wool, manufactured by the art and industry of the inhabitants of Virginia, would excite, not the gaze of admiration, the flutter of an agitated imagination, or the momentary amusement of a transient scene, but

* The ingenious Mr. Hume observes, in his *History of James I.* that the English fine cloth was in so little credit even at home, that the king was obliged to seek expedients by which he might engage the people of fashion to wear it, and the manufacture of fine linen was totally unknown in the kingdom. What an encouragement to industry! This very penetrating gentleman also recommends a mild Government, as a proper measure for preserving the dominion of England over her colonies.

a calm, solid, heartfelt delight. Such a sight would give me more pleasure than the most splendid and magnificent spectacle the most exquisite taste ever painted, the richest fancy ever imagined, realized to the view—as much more pleasure as a good mind would receive from the contemplation of virtue, than of elegance; of the spirit of patriotism, than the ostentation of opulence.

Not only 'as a friend to the colonies', but as an inhabitant, having my all at stake upon their welfare, I desire an 'Exemption from taxes imposed without my consent', and I have reflected longer than 'a moment upon the consequences': I value it as one of the dearest privileges I enjoy: I acknowledge dependence on Great Britain, but I can perceive a degree of it without slavery, and I disown all other. I do not expect that the interests of the colonies will be discovered by some men, but in subserviency to other regards. The effects of luxury and venality and oppression, posterity may perhaps experience, and sufficient for the day will be the evil thereof.

RESOLUTIONS OF THE STAMP ACT CONGRESS *

19 October 1765

THE members of this Congress, sincerely devoted with the warmest sentiments of affection and duty to His Majesty's person and Government, inviolably attached to the present happy establishment of the Protestant succession, and with minds deeply impressed by a sense of the present and impending misfortunes of the British colonies on this continent; having considered as maturely as time will permit the circumstances of the said colonies, esteem it our indispensable duty to make the following declarations of our humble opinion respecting the most essential rights and liberties of the colonists, and of the grievances under which they labour, by reason of several late Acts of Parliament.

I. That His Majesty's subjects in these colonies owe the same allegiance to the Crown of Great Britain that is owing from his subjects born within the realm, and all due sub-

* [John Campbell] *The Regulations lately made* (London, 1765), p. 111.
Collection of Interesting, Authentic Papers relative to the Disputes between Great Britain and America (John Almon, ed., London, 1777; usually cited as 'Prior Documents'), p. 27. The Congress also adopted separate petitions to King, Lords, and Commons.

ordination to that august body the Parliament of Great Britain.

II. That His Majesty's liege subjects in these colonies are intitled to all the inherent rights and liberties of his natural born subjects within the kingdom of Great Britain.

III. That it is inseparably essential to the freedom of a people, and the undoubted right of Englishmen, that no taxes be imposed on them but with their own consent, given personally or by their representatives.

IV. That the people of these colonies are not, and from their local circumstances cannot be, represented in the House of Commons in Great Britain.

V. That the only representatives of the people of these colonies are persons chosen therein by themselves, and that no taxes ever have been, or can be constitutionally imposed on them, but by their respective legislatures.

VI. That all supplies to the Crown being free gifts of the people, it is unreasonable and inconsistent with the principles and spirit of the British Constitution, for the people of Great Britain to grant to His Majesty the property of the colonists.

VII. That trial by jury is the inherent and invaluable right of every British subject in these colonies.

VIII. That the late Act of Parliament, entitled *An Act for granting and applying certain stamp duties, and other duties, in the British colonies and plantations in America, &c.*, by imposing taxes on the inhabitants of these colonies; and the said Act, and several other Acts, by extending the jurisdiction of the courts of Admiralty beyond its ancient limits, have a manifest tendency to subvert the rights and liberties of the colonists.

IX. That the duties imposed by several late Acts of Parliament, from the peculiar circumstances of these colonies, will be extremely burthensome and grievous; and from the scarcity of specie, the payment of them absolutely impracticable.

X. That as the profits of the trade of these colonies ultimately center in Great Britain, to pay for the manufactures which they are obliged to take from thence, they eventually contribute very largely to all supplies granted there to the Crown.

XI. That the restrictions imposed by several late Acts of Parliament on the trade of these colonies will render them unable to purchase the manufactures of Great Britain.

STAMP ACT CONGRESS

XII. That the increase, prosperity, and happiness of these colonies depend on the full and free enjoyments of their rights and liberties, and an intercourse with Great Britain mutually affectionate and advantageous.

XIII. That it is the right of the British subjects in these colonies to petition the King or either House of Parliament.

Lastly, That it is the indispensable duty of these colonies to the best of sovereigns, to the mother country, and to themselves, to endeavour by a loyal and dutiful address to His Majesty, and humble applications to both Houses of Parliament, to procure the repeal of the Act for granting and applying certain stamp duties, of all clauses of any other Acts of Parliament, whereby the jurisdiction of the Admiralty is extended as aforesaid, and of the other late Acts for the restriction of American commerce.

FROM DICKINSON'S FARMER'S LETTERS, 1767-8

*Letters from a Farmer in Pennsylvania to the Inhabitants of the British Colonies.*¹

LETTER I

MY DEAR COUNTRYMEN,

I am a farmer, settled after a variety of fortunes near the banks of the river Delaware, in the province of Pennsylvania. I received a liberal education and have been engaged in the busy scenes of life, but am now convinced, that a man may be as happy without bustle as with it. My farm is small, my servants are few and good, I have a little money at interest, I wish for no more, my employment in my own affairs is easy, and with a contented, grateful mind, undisturbed by worldly hopes or fears relating to myself, I am completing the number of days allotted to me by divine goodness.

Being generally master of my time, I spend a good deal of it in a library, which I think the most valuable part of my small estate; and being acquainted with two or three gentlemen of abilities and learning who honour me with their friendship,

¹ From the Philadelphia edition of 1768, as reprinted in *The Writings of John Dickinson* (P. L. Ford, ed.), *Memoirs of the Historical Society of Pennsylvania*, xiv (Philadelphia, 1895). They first appeared in the newspapers, Letter I being dated November 5, 1767.

PROCEEDINGS OF THE TOWN OF BOSTON *

October-November 1772

At a meeting of the freeholders and other inhabitants of the Town of Boston, duly qualified and legally warned, in public town meeting assembled at Faneuil Hall, on Wednesday the 28th day of October 1772.

The Hon. John Hancock, Esq., was chosen Moderator. . . . It was moved and seconded—That a decent and respectful application from this meeting be made to his Excellency the Governor, acquainting him that the Town has been alarm'd

* This clause is a demand that the earliest 'squatter' on a given section of the Granville Propriety be given a pre-emption right over other possible purchasers.

* *Boston Town Records, 1770-7* (18th Report of Boston Record Commissioners, 1887), pp. 88-108. These proceedings, which show the methods of Samuel Adams and the Boston 'Sons of Liberty', were also published at Boston in a contemporary pamphlet, *Votes and Proceedings of the Freeholders and other Inhabitants of the Town of Boston*, which was reprinted in Dublin and in London, 1773.

with the reports that stipends are affixed to the office of the Judges of the Superior Court of Judicature of this Province, whereby they are rendered intirely independent of the grants and acts of the General Assembly for their support, which the Town is apprehensive will be attended with the most fatal consequences, and therefore humbly and earnestly to pray his Excellency, that he would be pleased to inform them, whether his Excellency has received any advice relative to this matter in any way from whence he has reason to apprehend that such an establishment has or will be made. And the question being put, it passed in the affirmative by a vast majority.

Also *voted* that Mr. Samuel Adams, Dr. Joseph Warren, Dr. Benjamin Church, be a committee to draw up an address to the Governor on the foregoing subject and to report at the adjournment.

[That afternoon the address was adopted.]

On October 30 the committee reported to the Town Meeting the Governor's written reply:]

GENTLEMEN,—It is by no means proper for me to lay before the inhabitants of any town whatsoever, in consequence of their votes and proceedings in a town meeting, any part of my correspondence as Governor of this Province, or to acquaint them whether I have received any advice relating to the public affairs of government. This reason alone, if your address to me had been in other respects unexceptionable, would have been sufficient to restrain me from complying with your desire.

I shall always be ready to gratify the inhabitants of the Town of Boston upon every regular application to me on business of public concernment to the Town, as far as I shall have it in my power, consistent with fidelity to the trust which His Majesty has reposed in me.

T. HUTCHINSON.

The foregoing answer having been considered, it was moved and the question put—Whether application shall be now made to his Excellency by the Town that he would be pleased to permit the General Assembly to meet at the time to which they stand prorogued, which passed in the affirmative, *nem. con.*

It was then *voted* that the Hon. James Otis, Esq., Mr. Samuel

Adams, the Hon. Thomas Cushing, Esq., be a committee to prepare a petition to his Excellency for the purpose aforesaid.

[That afternoon the petition was reported and accepted. It complains of the reported fixed stipends for the judges, and their holding their commissions *bene placitu*, and concludes as follows:]

It is therefore their earnest and humble request that your Excellency would be pleased to allow the General Assembly to meet at the time to which they now stand prorogued; in order that in that *constitutional* body, with whom it is to enquire into grievances and redress them, the joint wisdom of the Province may be employed in deliberating, and determine on a matter so important and alarming.

[On November 2 the committee laid before the Town Meeting the Governor's reply:]

GENTLEMEN,—The Royal Charter reserves to the Governor full power and authority from time to time, as he shall judge necessary, to adjourn, prorogue, and dissolve the General Assembly. In the exercise of this power, both as to time and place, I have always been governed by a regard to His Majesty's service and to the interest of the Province. It did not appear to me necessary for these purposes that the Assembly should meet at the time to which it now stands prorogued, and before I was informed of your Address, I had determined to prorogue it to a further time. The reasons which you have advanced have not altered my opinion. If, notwithstanding, I should alter my determination and meet the Assembly, contrary to my own judgment, at such a time as you judge necessary, I should in effect yield to you the exercise of that part of the prerogative, and should be unable to justify my conduct to the King. There would, moreover, be danger of encouraging the inhabitants of the other towns in the Province to assemble from time to time in order to consider of the necessity and expediency of a session of the General Assembly, or to debate and transact other matters which the law that authorizes towns to assemble, does not make the business of a Town Meeting.

T. HUTCHINSON.

The foregoing reply having been read several times and duly considered, it was moved and the question accordingly

put—Whether the same be satisfactory to the Town; which passed in the negative, *nem. con.* And thereupon,

Resolved as the opinion of the inhabitants of this Town that they have ever had, and ought to have, a right to petition the King or his representatives for the redress of such grievances as they feel, or for preventing of such as they have reason to apprehend, and to communicate their sentiment to other towns.

It was then moved by Mr. Samuel Adams that a Committee of Correspondence be appointed, to consist of twenty-one persons, to state the Rights of the Colonists and of this Province in particular, as men, as Christians,¹ and as subjects; to communicate the same to the several towns in this Province, and to the World, as the sense of this Town, with the infringements and violations thereof that have been, or from time to time may be made—also requesting of each Town a free communication of their sentiments on this subject. And the question being accordingly put, passed in the affirmative, *nem. con.*

Also *voted*, that the Hon. James Otis, Esq., Mr. Samuel Adams, Dr. Joseph Warren [and eighteen others] be, and hereby are appointed a Committee for the purpose aforesaid.

[On November 20 the Committee of Correspondence reports. The first part of their report, 'The State of the Rights of the Colonists', is accepted *nem. con.*; the second part, a 'List of Infringements and Violations of Rights', is recommitted for additions, and accepted in the afternoon session, as is a Letter to other towns. It is voted that the foregoing proceedings be printed, and copies sent to the selectmen of every town in the Province. The concluding

¹ Adams wrote Elbridge Gerry, 14 November 1772. 'The word you object to in our resolves was designed to introduce into our State of Grievances the "Church innovations, and the establishment of those tyrants in religion, bishops", which as you observe will probably take place. I cannot but hope, when you consider how indifferent too many of the clergy are to our just and righteous cause, that some of them are the adulators of our oppressors, and even some of the best of them are extremely cautious of recommending (at least in their publick performances) the rights of their country to the protection of Heaven, lest they should give offence to the little gods on earth, you will judge it quite necessary that we should assert and vindicate our rights as Christians as well as men and subjects.' *Writings*, ii. 349.

paragraph of the 'Rights of the Colonists', and an abridgement of the 'Infringements', follow:¹

The inhabitants of this country in all probability in a few years will be more numerous than those of Great Britain and Ireland together; yet it is absurdly expected by the promoters of the present measures, that these, with their posterity to all generations, should be easy while their property shall be disposed of by a House of Commons at three thousand miles distant from them; and who cannot be supposed to have the least care or concern for their real interest: who have not only no natural care for their interest, but must be in effect bribed against it; as every burden they lay on the colonists is so much saved or gained to themselves. Hitherto many of the colonists have been free from quit rents; but if the breath of a British House of Commons can originate an Act for taking away all our money, our lands will go next, or be subject to rack rents from haughty and relentless landlords who will ride at ease, while we are trodden in the dirt. The colonists have been branded with the odious names of traitors and rebels, only for complaining of their grievances; how long such treatment will, or ought to be born, is submitted.

A List of Infringements and Violations of Rights

We cannot help thinking, that an enumeration of some of the most open infringements of our rights, will by every candid person be judged sufficient to justify whatever measures have been already taken, or may be thought proper to be taken, in order to obtain a redress of the grievances under which we labour.

1. The British Parliament have assumed the power of legislation for the colonists in all cases whatsoever, without obtaining the consent of the inhabitants, which is ever essentially necessary to the right establishment of such a legislative.

2. They have exerted that assumed power, in raising a revenue in the colonies without their consent; thereby depriving them of that right which every man has to keep

¹ The whole may be found in the *Writings of Samuel Adams* (H. A. Cushing, ed.), ii. 350-74; and the 'Rights' in *Old South Leaflets*, No. 173.

his own earnings in his own hands until he shall in person, or by his Representative, think fit to part with the whole or any portion of it. . . .

3. A number of new officers, unknown in the charter of this Province, have been appointed to superintend this revenue, whereas by our charter the Great and General Court or Assembly of this Province has the sole right of appointing all civil officers, excepting only such officers, the election and constitution of whom is in said charter expressly excepted; among whom these officers are not included.

4. These officers are by their commission invested with powers altogether unconstitutional, and entirely destructive to that security which we have a right to enjoy; and to the last degree dangerous, not only to our property, but to our lives. For the Commissioners of His Majesty's Customs in America, or any three of them, are by their commission impowered, 'by writing under their hands and seals to constitute and appoint inferior officers in all and singular the ports within the limits of their commissions'. Each of these petty officers so made is intrusted with power more absolute and arbitrary than ought to be lodged in the hands of any man or body of men whatsoever. . . .¹

Thus our houses and even our bed chambers are exposed to be ransacked, our boxes, chests, and trunks broke open, ravaged and plundered by wretches, whom no prudent man would venture to employ even as menial servants; whenever they are pleased to say they *suspect* there are in the house wares, etc., for which the duties have not been paid. Flagrant instances of the wanton exercise of this power, have frequently happened in this and other seaport towns. By this we are cut off from that domestick security which renders the lives of the most unhappy in some measure agreeable. . . .

5. Fleets and armies have been introduced to support these unconstitutional officers in collecting and managing this unconstitutional revenue; and troops have been quarter'd in this metropolis for that purpose. Introducing and quartering standing armies in a free country in times of peace without the consent of the people either by themselves or by their representatives, is, and always has been deemed a violation of their rights as freemen; and of the charter or compact made between the King of Great Britain, and the people of

¹ See the instructions by the Commissioners, above, pp. 74-83.

this province, whereby all the rights of British subjects are confirmed to us.

6. The Revenue arising from this tax unconstitutionally laid, and committed to the management of persons arbitrarily appointed and supported by an armed force quartered in a free city, has been in part applied to the most destructive purposes. It is absolutely necessary in a mixt government like that of this Province, that a due proportion or balance of power should be established among the several branches of legislative. Our ancestors received from King William and Queen Mary a charter by which it was understood by both parties in the contract, that such a proportion or balance was fixed; ¹ and therefore everything which renders any one branch of the legislative more independent of the other two than it was originally designed, is an alteration of the constitution as settled by the charter; and as it has been until the establishment of this revenue, the constant practise of the General Assembly to provide for the support of government, so it is an essential part of our constitution, as it is a necessary means of preserving an equilibrium, without which we cannot continue a free state.

In particular it has always been held that the dependence of the Governor of this Province upon the General Assembly for his support, was necessary for the preservation of this equilibrium; nevertheless His Majesty has been pleased to apply fifteen hundred pounds sterling annually out of the American revenue, for the support of the Governor of this Province independent of the Assembly, whereby the ancient connection between him and this people is weakened, the confidence in the Governor lessened and the equilibrium destroyed, and the constitution essentially altered.

And we look upon it highly probable from the best intelligence we have been able to obtain, that not only our Governor and Lieutenant Governor, but the Judges of the Superior Court of Judicature, as also the King's Attorney and Solicitor General are to receive their support from this grievous tribute. This will if accomplished compleat our slavery. . . .

7. We find ourselves greatly oppressed by instructions sent to our Governor from the Court of Great Britain, whereby the first branch of our legislature is made merely a ministerial

¹ Of course the charter of 1691 was in no sense a contract, and the original balance of it had long since been destroyed.

engine. And the Province has already felt such effects from these instructions, as we think justly intitle us to say that they threaten an entire destruction of our liberties, and must soon, if not checked, render every branch of our government a useless burthen upon the people. We shall point out some of the alarming effects of these instructions which have already taken place.

In consequence of instructions, the Governor has called and adjourned our General Assemblies to a place highly inconvenient to the members, and gratefully disadvantageous to the interest of the Province, even against his own declared intention.

In consequence of instructions, the Assembly has been prorogued from time to time, when the important concerns of the Province required their meeting.

In obedience to instructions, the General Assembly was anno 1768 dissolved by Governor Bernard, because they would not consent to rescind the resolution of a former house, and thereby sacrifice the rights of their constituents.

By an instruction, the honourable His Majesty's Council are forbid to meet and transact matters of publick concern as a Council of advice to the Governor, unless called by the Governor; and if they should from a zealous regard to the interest of the Province so meet at any time, the Governor is ordered to negative them at the next election of Councilors. . . .

His Excellency has also pleaded instructions for giving up the provincial fortress, Castle William, into the hands of troops, over whom he had declared he had no controul, and that at a time when they were menacing the Slaughter of the inhabitants of the Town, and our streets were stained with the blood which they had barbariously shed. . . .

8. The extending the power of the Courts of Vice Admiralty to so enormous a degree as deprives the people in the colonies in a great measure of their inestimable right to tryals by juries: which has ever been justly considered as the grand bulwark and security of English property. . . .

9. The restraining us from erecting slitting mills for manufacturing our iron, the natural produce of this country, is an infringement of that right with which God and nature have invested us, to make use of our skill and industry in procuring the necessaries and conveniences of life. And we

look upon the restraint laid upon the manufacture and transportation of hats to be altogether unreasonable and grievous. Although by the charter all havens, rivers, ports, waters, etc., are expressly granted the inhabitants of the Province and their successors, to their only proper use and behoof forever, yet the British Parliament passed an Act, whereby they restrain us from carrying our wool, the produce of our own farms, even over a ferry; whereby the inhabitants have often been put to the expence of carrying a bag of wool near an hundred miles by land, when passing over a river or water of one quarter of a mile, of which the Province are the absolute proprietors, would have prevented all that trouble.¹

10. The Act passed in the last session of the British Parliament, intituled, An Act for the better preserving his Majestys Dock Yards, Magazines, Ships, Ammunition and Stores, is, as we apprehend a violent infringement of our rights.² By this Act any one of us may be taken from his family, and carried to any part of Great Britain, there to be tried whenever it shall be pretended that he has been concerned in burning or otherwise destroying any boat or vessel, or any materials for building, etc., any naval or victualling store, etc., belonging to His Majesty. . . .

11. As our Ancestors came over to this Country that they might not only enjoy their civil but their religious rights, and particularly desired to be free from the prelates, who in those times cruilly persecuted all who differed in sentiment from the established Church; we cannot see without concern the various attempts which have been made and are now making, to establish an American Episcopate. Our Episcopal brethren of the colonies do enjoy, and rightfully ought ever to enjoy, the free exercise of their religion, we cannot help fearing that they who are so warmly contending for such an establishment, have views altogether inconsistent with the universal and peaceful enjoyment of our Christian privileges. And doing or attempting to do anything which has even the remotest tendency to endanger this enjoyment, is justly looked upon a great grievance, and also an infringement of our rights, which is not barely to exercise, but peaceably and securely to enjoy, that liberty wherewith Christ has made us free.

And we are further of Opinion that no power on Earth can

¹ See p. 82, and 23 Geo. II, c. 29.

² 12 Geo. III, c. 24.

justly give either temporal or spiritual jurisdiction within this Province, except the Great and General Court. We think therefore that every design for establishing the jurisdiction of a bishop in this Province, is a design both against our civil and religious rights. And we are well informed, that the more candid and judicious of our brethren of the Church of England in this and the other colonies, both clergy and laity, conceive of the establishing an American Episcopate both unnecessary and unreasonable.¹

² Another grievance under which we labour is the frequent alteration of the bounds of the colonies by decisions before the King and Council, explanatory of former grants and charters. This not only subjects men to live under a constitution to which they have not consented, which in itself is a great grievance; but moreover under color that the right of soil is affected by such declarations, some governors, or ministers, or both in conjunction, have pretended to grant in consequence of a mandamus many thousands of acres of lands appropriated near a century past; and rendered valuable by the labors of the present cultivators and their ancestors. There are very notable instances of settlers, who having first purchased the soil of the natives, have at considerable expence obtained confirmation of title from this Province; and on being transferred to the jurisdiction of the Province of New Hampshire have been put to the trouble and cost of a new grant or confirmation from thence; and after all this there has been a third declaration of royal will, that they should thenceforth be considered as pertaining to the Province of New York.³ The troubles, expences, and dangers which hundreds have been put to on such occasions, cannot here be recited; but so much may be said, that they have been most cruelly harrassed, and even threatened with a military force, to dragoon them into a compliance with the most unreasonable demands.

¹ Van Tyne, *Causes of War of Independence*, chapter xiii; A. L. Cross, *Anglican Episcopate and American Colonies*, Harvard Historical Studies, ix.

² This refers particularly to the 'New Hampshire Grants', which later became the State of Vermont. Massachusetts had suffered from Colonial boundary decisions, but it had also authorized settlements in territories to which it had no colour of right.

ADDITIONAL INSTRUCTIONS TO THE ROYAL GOVERNORS¹

3 February 1774

GEORGE R.

Additional Instructions to Our Trusty and Wellbelov'd Our Captain General and Governor in Chief in and over Our Province of , and the Islands and Territories therunto belonging in America; Or to the Commander in Chief of Our said Province for the time being, Given at Our Court at St. James's the third day of February 1774, in the Fourteenth Year of Our Reign.

WHEREAS by Our Commission to you under our Great Seal of Great Britain, bearing date the day of in the year of our reign, you are authorized and impowered, with the advice and consent of our Council for our said Province of under your Government, to settle and agree with the inhabitants of our said Province for such lands, tenements and hereditaments, as now are or hereafter shall be in our power to dispose of, and them to grant to any person or persons, upon such terms, and under such moderate quit rents, services, and acknowledgements to be thereupon reserved unto us, as you, by and with the advice aforesaid, shall think fit; and whereas the usual directions for the due execution of the said powers . . . have been found to be inadequate, improper and inconvenient. . . . We do hereby revoke and annul all and every part of the said Instructions . . . as they relate to the laying out and passing grants of land within our said Provinces, and to the terms and conditions upon which the said grants are to be made. And it is our further will and pleasure, and We do hereby direct and appoint that the following Rules and Regulations be henceforth strictly and punctually observed in the laying out, allotting, and granting such lands, tenements and hereditaments, as now are, or hereafter shall be in our power to dispose of, within our said Province. That is to say.

I. That you Our said Governor, . . . with the advice and assistance of Our Lieutenant Governor of our said Province,

¹ Public Record Office, C. O. 5, 241, pp. 511-24. The blanks in this copy are filled in for Nova Scotia.

Our Surveyor General of Lands for the northern District of North America, Our Secretary, Our Surveyor General of Our Lands and Our Receiver General of Our quit-rents for our said Province of . . . or any three of them, do from time to time, and at such times as you shall, with the advice aforesaid judge most convenient, cause actual surveys to be made of such parts of our said Province, not already granted or disposed of, the settlement and improvement whereof you shall think will be most advantageous to the public interest and welfare: taking care, that such Districts, so to be surveyed and laid out as aforesaid, be divided into such a number of lots (each lot to contain not less than one hundred nor more than one thousand acres) as our said Surveyor General shall judge best adapted to the nature and situation of the District so to be surveyed.¹

2. That when the said Survey shall have been made, a map of the District so surveyed, with the several lots marked and number'd thereon, be hung up in our Secretary's Office within our said Province, and duplicates thereof transmitted to us by one of our Principal Secretary's of State, and to our Commissioners of our Treasury, accompanied with a report in writing signed by our said Surveyor General, descriptive of the nature and advantages not only of the whole District in general, but also of each particular Lot.

3. That so soon as the said Survey shall have been made and returned, as aforesaid, you our said Governor or Commander in Chief of our said Province for the time being do, with the advice of our Council of our said Province and of the Officers herein before mentioned, appoint such time and place for the sale and disposal of the lands, contained within the said Survey, to the best bidder, as you and they shall judge most convenient and proper, giving previous notice thereof at least four months before such sale by printed advertisements to be published, not only within our said Province, but also in the other neighbouring Provinces; and that you do proceed to

¹ This system of prior survey was founded on the system by which the New England colonies had extended their frontier of settlement. Judge William Smith of New York had recommended the application of it to the West in his *Historical Account of the Bouquet expedition* (Philadelphia, 1766); and Governor William Franklin made the same suggestion in his 'Reasons for Establishing a Colony in the Illinois' (*Illinois Hist. Collections*, xi. 252). See above, p. xxvii, and the Ordinance of Congress of 1785, below.

such Sales at the times appointed, unless you shall first receive directions from us to the contrary under our signet and sign manual, or by our Order in our Privy Council.

4. That you Our said Governor, or Our Governor, or Commander in Chief of Our said Province for the time being do, with the advice and assistance aforesaid, fix the price per Acre, at which the several Lots shall be put up to sale, according to the quality and condition thereof, taking care, that no Lot is put up to such sale at a less price than six pence per Acre, and all such Lots are to be sold subject to a reservation to Us, Our Heirs and Successors of an annual Quitrent of one halfpenny Sterling per acre.

5. That the printed advertisement containing notice of the time and place of sale, so to be published, as aforesaid, be as full and explicit as may be, as well in respect to the number and contents of the lots to be sold, as the terms and conditions, on which they are to be put up to sale, and the general situation of the lands, and the advantages and convenience thereof.

6. That the person, who at such sale shall bid most for any lot, shall be the purchaser, and shall upon payment of the purchase money into the hands of Our Receiver General or his deputy, who is to attend at such sales, receive from him a bill of sale of the lot or lots so purchased, upon producing whereof to you our Governor, . . . he shall be forthwith entitled to a grant in fee simple of the land so purchased as aforesaid by Letters Patent under our public seal of our said Province, subject to no conditions or reservations whatever, other than except the payment to us, our heirs, and successors of the annual quit rent of one halfpenny her acre, as aforesaid and also of all mines of gold, silver or precious stones.

7. That the fees to be paid by purchasers of land, in manner herein before recited be such as are allowed by law and no other, . . .

And it is our further will and pleasure, that neither you our Governor . . . do, upon any pretence whatever, presume to grant any lands, tenements or hereditaments within our said Province, which are in our power to dispose of, upon any other terms, or in any other manner, than as herein before recited, without our express authority for that purpose, under our Signet, and Sign Manual, or by our Order in our Privy Council, except only in the case of such commission officers and soldiers, as are entitled to grants of lands in virtue of our Royal

Proclamation of the 7 October 1763, to whom such grants are to be made and passed in the proportions, and under the conditions prescribed in the said Proclamation.

And it is our further will and pleasure, that in all Districts, which shall hereafter be surveyed, in order to a sale of the lands in manner herein before recited, there be a reservation of such parts thereof, as shall appear from the report of the Surveyor, to be necessary for public uses.

And it is our further will and pleasure, that you our said Governor, . . . do from time to time, and as often as any Survey or sales of land shall be made in manner before mentioned, make a full and particular Report to us, by one of our principal Secretaries of State, of all proceedings in regard thereto, together with a state of the expences attending the said Survey and sales, and your or their opinion of the allowances it may be proper to make on that account to the end and intent, that we may take such order therein as shall appear to be reasonable and proper.

G. R.

A like Instruction and of the same date to the following Governors: New Hampshire, New York, Virginia, North Carolina, South Carolina, Georgia, East Florida, West Florida.

FROM THE MASSACHUSETTS GOVERNMENT ACT 1

20 May 1774

An Act for the better regulating the Government of the Province of the Massachusetts-Bay in New England.

[WHEREAS, the method of electing the Councillors of this Province, under the Charter of 1691,^a] hath, for some time past been such as had the most manifest tendency to obstruct, and in great measure defeat the execution of the laws; to weaken the attachment of His Majesty's well-disposed subjects in the said Province to His Majesty's government, and to

^a 14 Geo. III, c. 45.

Unlike the other colonies, where the Council or Upper House was appointed by the royal Governor, the Council of Massachusetts-Bay was annually elected by the whole legislature (General Court). Consequently it reflected the opinions of the Whig majority.

encourage the ill-disposed among them to proceed even to acts of direct resistance to and defiance of His Majesty's authority.

. . . Be it therefore enacted [that so much of the said Charter which relates to the election of Councillors] is hereby revoked, . . . [and that from 1 August 1774] the Council, or Court of Assistants of the said Province for the time being, shall be composed of such of the inhabitants or proprietors of lands within the same as shall be thereunto nominated and appointed by His Majesty, his heirs and successors, from time to time, by warrant under his or their signet or sign manual, and with the advice of the Privy Council, agreeable to the practice now used in respect to the appointment of Councillors in such of His Majesty's other colonies in America, the Governors whereof are appointed by commission under the great seal of Great Britain: provided, that the number of the said Assistants or Councillors shall not, at any one time, exceed thirty-six, nor be less than twelve.

2. And it is hereby further enacted, that the said Assistants or Councillors, . . . shall hold their offices respectively, for and during the pleasure of His Majesty. . . .

3. It shall and may be lawful for His Majesty's Governor . . . of the said Province, . . . to nominate and appoint, under the seal of the Province, from time to time, and also to remove, without the consent of the Council, all judges of the inferior courts of common pleas, commissioners of oyer and terminer, the attorney general, provosts, marshals, justices of the peace, and other officers to the Council or courts of justice belonging; and . . . [5] to nominate and appoint the sheriffs without the consent of the Council, and to remove such sheriffs with such consent, and not otherwise.

6. . . . Upon every vacancy of the offices of Chief Justice and Judges of the Superior Court of the said Province, . . . the Governor for the time being, or, in his absence, the Lieutenant Governor, without the consent of the Council, shall have full power and authority to nominate and appoint the persons to succeed to the said offices, who shall hold their commission during the pleasure of His Majesty. . . .

7. And whereas, by several acts of the General Court, . . . the freeholders and inhabitants of the several townships . . . are authorized to assemble together annually or occasionally, upon notice given, in such manner as the said acts direct, for the choice of selectmen, constables, and other officers, and for the

making and agreeing upon such necessary rules, orders, and bye-laws, for the directing, managing, and ordering, the prudential affairs of such townships . . . and whereas a great abuse has been made of the power of calling such meetings, and the inhabitants have, contrary to the design of their institution, been misled to treat upon matters of the most general concern, and to pass many dangerous and unwarrantable resolves: for remedy whereof, be it enacted, That no meeting shall be called . . . without the leave of the Governor, or in his absence of the Lieutenant-Governor, in writing expressing the special business of the said meeting, first had and obtained, except the annual meeting in the months of March or May for the choice of select men, constables, and other officers, or except for the choice of persons to fill up the offices aforesaid, . . . and also, except any meeting for the election of a representative or representatives in the General Court; and that no other matter shall be treated of at such meetings, except the election of their aforesaid officers or representatives, nor at any other meeting, except the business expressed in the leave given by the Governor, or, in his absence, by the Lieutenant-Governor.

8. And whereas the method at present used in the Province of Massachusetts-Bay, in America, of electing persons to serve on grand juries, and other juries, by the freeholders and inhabitants of the several towns, affords occasion for many evil practices, and tends to pervert the free and impartial administration of justice: for remedy whereof, be it further enacted . . . the jurors to serve at the superior courts of judicature, courts of assize, general gaol delivery, general sessions of the peace, and inferior court of common pleas, in the several counties within the said Province, . . . shall be summoned and returned by the sheriffs of the respective counties within the said Province. . . .

FROM THE QUEBEC ACT¹

22 June 1774

An Act for making more effectual provision for the Government of the Province of Quebec in North America.

WHEREAS His Majesty, by his Royal Proclamation bearing date the seventh day of October in the third year of his reign, thought fit to declare the provisions which had been made in respect to certain countries, territories and islands in America, ceded to His Majesty by the definitive Treaty of Peace, concluded at Paris on the tenth day of February 1763: And whereas by the arrangements made by the said Royal Proclamation, a very large extent of country, within which there were several colonies and settlements of the subjects of France, who claimed to remain therein under the faith of the said Treaty, was left without any provision being made for the administration of civil government therein; . . . be it enacted. . .

That all the territories, islands and countries in North America belonging to the Crown of Great Britain, bounded on the South by a line from the Bay of Chateaus, along the high lands which divide the rivers that empty themselves into the river Saint Lawrence from those which fall into the sea, to a point in forty-five degrees of northern latitude, on the eastern bank of the river Connecticut, keeping the same latitude directly west, through the lake Champlain, until, in the same latitude, it meets the river Saint Lawrence; from thence up the eastern bank of the said river to the Lake Ontario; thence through the Lake Ontario, and the river commonly called Niagara; and thence along by the eastern and south-eastern bank of Lake Erie, following the said bank, until the same shall be intersected by the northern boundary granted by the charter of the Province of Pennsylvania, in case the same shall be so intersected; and from thence along the said northern and western boundaries of the said Province, until the said western boundary strike the Ohio; . . . and along the bank of the said river, westward to the banks of the Mississippi, and northward to the southern boundary of the territory granted to the Merchants Adventurers of England

¹ 14 Geo. III, c. 83. Full text in 4 *Force's American Archives*, i. 216-20, and Shortt and Doughty, *Documents rel. to Constitutional History of Canada* (1907 ed.), pp. 401-5.

QUEBEC ACT

trading to Hudson's Bay ; . . . are hereby, during His Majesty's pleasure, annexed to and made part and parcel of the Province of Quebec. . . .

Provided always, that nothing herein contained relative to the boundary of the Province of Quebec shall in any wise affect the boundaries of any other colony.

And . . . it is hereby declared, that His Majesty's subjects professing the religion of the Church of Rome of and in the said Province of Quebec, may have, hold and enjoy the free exercise of the religion of the Church of Rome, subject to the King's Supremacy ; . . . and that the clergy of the said Church may hold, receive and enjoy their accustomed dues and rights, with respect to such persons only as shall profess the said religion.

FROM JAMES WILSON'S ' CONSIDERATIONS ON
THE AUTHORITY OF PARLIAMENT ' ¹

August 1774

Considerations on the Nature and Extent of the Legislative Authority of the British Parliament. Philadelphia, 1774.

ADVERTISEMENT

THE following sheets were written during the late non-importation agreement : ² but that agreement being dissolved before they were ready for the press, it was then judged unseasonable to publish them. Many will, perhaps, be surprised to see the legislative authority of the British Parliament over the colonies denied in every instance. Those the writer informs, that, when he began this piece, he would probably have been surprised at such an opinion himself ; for that it was the *result*, and not the *occasion*, of his disquisitions. He entered upon them with a view and expectation of being able to trace some constitutional line between those cases in which we ought, and those in which we ought not, to acknowledge the power of Parliament over us. In the prosecution of his inquiries, he became fully convinced that such a line does not exist ; and that there can be no medium between

¹ *Works of James Wilson* (J. De W. Andrews, ed.), Chicago, 1896. ii. 504, 522-43.

² In 1770.