

**Fellow citizens, friends to liberty and equal commerce. Brethren. The man who employs his talents, to direct his countrymen in the path of truth, or guard them against impending evils, is a blessing to his Country ... Therefore I doubt not but you will conduct yourselves in this alarming crisis, with that wisdom and resolution, that become men who have their all, and the reputation of the colony at stake, I am Brethren, your affectionate fellow-citizens, A student of law. New York, Nov. 19, 1773.**

FELLOW CITIZENS, FRIENDS TO LIBERTY AND EQUAL COMMERCE.

Brethren,

THE man who employs his talents, to direct his Countrymen in the path of truth, or guard them against impending evils, is a blessing to his Country. But he, who prostitutes his pen, to deceive his neighbours into the dark mazes of error, or to lull their virtuous apprehensions a sleep, on a matter of the utmost importance, to their safety, and felicity, is a curse to the community, and a disgrace to human nature. Under which o? these characters you will rank the author of the partial extract of the Act of Parliament published in Mr. *Rivington's* paper, of the 28th of *October*; the authors of the two scurrilous letters, distributed in the dark; and *Poplicola*, who insinuates and affirms, that the Act of Parliament, imposing a Duty on Tea, imported into *America*, is repealed; will be seen in the sequel of this paper. 'Tis an incontestible evidence of a bad cause, when its advocates have recourse to misrepresentation, and falshood, for its support. Truth, requires no such vile auxiliaries, to maintain her sacred cause. Her own intrinsic excellence, will command the assent of her Votaries. The authors of those letters, have scurrilously abused many of the respectable inhabitants of this City, beyond all decency, and, without evidence. *Poplicola*, has made bold assertions, without proof, and declaimed without argument. This, is the champion, for the importation of tea; he hath had a clear stage, and shall have fair play; if he is conquered, and does not yield the palm, I doubt not, but you will hiss him off the stage. Let us now consider his insidious address. He tells you, that "the balance of *Europe*, depends on their commercial advantages," and "that, if any nation was able to engross the trade to *India*, that nation would inevitably preponderate in the balance of *Europe*, and bid fair to be mistress of the rest." But how does he prove, that the "most effectual means of securing a portion of this trade," is by "instituting companies, with peculiar privileges?" Why he tells you, "the *India Company*, of *France*, engaged the deepest policy of the *Subtle Riche?ieu*, and the penetrating *Colbert*. Those of *Great Britain*, and the united provinces, have met with similar encouragement, from their respective Statesmen." Ergo, the most effectual means to secure a portion of that trade, is by monopoly, &c. Have *France*, *England*, and *Holland*, given birth to no Statesmen, who established wicked and ill policed institutions? To what purpose is it then, to tell us what has been done, by men in either of

those countries? The *French India Company*, have long since been bankrupts, and Mr. *Poplicola*, tells you, that “the *British company*, is, at this time, in extreme distress, tottering on the very verge of ruin.” This distressed, and that bankrupt company, are to secure to their respective States, a portion of the *India* trade. Unfortunately for him, the instances he quotes, to prove his position, are irrefragable evidences to refute it. Is it necessary, I should tell you, what he is not ignorant of, that is, if the duty paid by the subjects, on *India* commodities, imported by the Company, contributes to support the State? It would equally do it, if those merchandises were imported by other merchants, by a free trade. And the profits the Company have on their sales, which indemnifies them for the risque of the trade, would be a compensation to the free trader, for his perils. And, if the Company are enabled, out of the general profits of the trade, to support troops, and garrisons, in *India*, there would be so great a saying, by carrying on the trade by co-partners in Ships, in what has been plundered from the Company, by its servants; that the nation would be better enabled than the Company, to support those troops, and garrisons, out of the public purse. Let then the descendants of those who sold the commerce of their Country to the Company, and have it in their power, to rid themselves of the burden, do it, or groan under it. We had no agency in it, and should not be bound by their perfidy.

*Poplicola* tells you, “that those violent partizans are enraged, not through any jealousy, as they pretend, for your Liberties, but through an enmity to the Company itself; which in their addresses they have held up in the most odious colours, and loaded with the most illiberal and cruel invectives.” Has *Poplicola* vindicated their innocence! Can he do it? Let me ask him, where the horrid picture of the cruelties, and matchless barbarities of the Company's servants, was first delineated? (and but delineated, for their conduct bids defiance to the most descriptive pen.) Was it not in the English prints? Was it not in the House of Commons! Where base delinquents have accused base delinquents! Yet to the astonishment of all the world, and the disgrace of our nation, they have passed with impunity! Such, however, in the opinion of Parliament, have been their enormities in *India*, that the government, is by a late act taken out of the hands of the Company. *Poplicola* also tells you, that “a few of your merchants have their stores crowded with teas.” The merchants and shop keepers of this city know this to be a notorious falshood; and therefore the general opposition to the importation of *English* tea, proceeds from a principle of virtue, to which he is (if we may judge from his production,) an utter stranger. *Poplicola* asserts, that the importers of tea from *Holland*, “extort what price they please from the public, for their illicit commodities.” The retailers and consumers of tea, by experience, know this to be as palpable a falshood as the other. For tea, from the first settlement of the colony; and while we had our principal supply from *England*, was but once under four shillings; and this continued not longer than three months: And was owing to the influence of the *Dutch* tea. But for near two years past, it has been under that. And to the honour of those merchants and retailers, who have tea, be it recounted, that, altho' they can now

command what price they please for it; yet such is their regard to the public, that they are satisfied with the moderate price of five shillings, when they might get ten for it in a neighbouring province; so that you have no extortion to dread from them. He also asserts, without proof, that "the teas which you will receive from *London*, are acknowledged to be superior in quality, to those imported from *Holland*; and will be sold to you, in all human probability, at least a shilling in the pound cheaper." That is denied, and he has not proved, nor can he prove it. The

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The Company cannot send tea to *America*, unless they have ten millions of pounds of it in their warehouses; which, in this case must have remained there many years, rotting and sweating; therefore, so far from its being better than the *Holland* tea, fresh imported from *India*, that it must be greatly inferior; as it would be idle to suppose they will send you the best, at an uncertainty. But if they should, it will not be better than the *Holland* tea, for the reason above-mentioned; and therefore this is a third falshood. Their selling the tea a shilling a pound cheaper, is intirely problematical. That Company, who connived at, if not abetted the starving of thousands of the *Asiatics*, by their servants' monopolizing the absolute necessaries of life, will have but little compassion on you, if you should be in their power. They will think every penny they extort from you, as well got as from that miserable and helpless people, whose blood the company's avaricious servants have spilt, with more than savage cruelty; and whose numerous starved bodies purified the air. But, suppose I grant for argument's sake, and for that only, That the *English* musty tea, will, on its first arrival, be sold a shilling cheaper than tea is now; is this to be weighed in the balance with the future extortion of eight or ten shillings a pound, the price it formerly was, and will be, when you will be intirely in their power, and with your Liberties! Surely not. This would be selling your birth-right indeed, for a mess of pottage. The inhabitants of *New-York*, have more wisdom and spirit, than to be duped into a measure that will ruin their commerce, and enslave them.

Many artifices have been used to lull you asleep, and to reconcile you to the manœuvre of importing the tea. When the *London* ships arrived that refused to take it on board, you were told that the project was laid aside, although commissioners were appointed to sell the tea. When its advocates found this would not satisfy your virtuous jealousy, another deception was contrived. They propagated a report that the snow *Albany* had brought certain advice from authority, that the *American* duty was to be paid in *England*. This being as ineffectual as the other tales to satisfy your unbelief, as you consider an *American* duty paid at *London*, or the *Cape of Good Hope* equally subversive of your freedom, as if it was paid in *America*; a farther expedient was contrived to dupe you. The parliament, say the advocates for the importation, passed a law "Which allows the *English East-India* Company to send tea to this country, without paying any duty in *America*." Do these

repugnant machinations speak the simple language of truth? No! Can you have a more incontestible evidence than this, that secret mischief is intended? No!

Well might *Poplicola* say, "That your liberties are in danger; that if you *touch a grain of the accursed teas, you are undone.*" A small attention to the act of parliament, and the reason of the law, will shew the truth "of such assertions." Had he and his fellow labourers in the works of darkness, been disposed to put the act in its true point of light to you, they would not have cited parts of it, but published the whole clause in question, and the recitals connected with it. But this would not have answered their dark purpose, Their design was to deceive; and no means, however base, must be left untried to effect it. But as I am an advocate for truth, which can never be injured, but advanced by a strict scrutiny, the recitals, and the clause, which have been so infamously perverted, is inserted, to enable you to judge for yourselves, and of my reasoning upon them<sup>\*</sup>. To form a right judgment of the act in controversy, it is necessary to inform you, that there were, before the passing of this act, several acts of parliament that imposed duties on the Company's tea imported from *India* into *England*, and regulated the sales of it. The 6th and 7th William III. chap. 7. section 2. enacted that "for every pound of tea regularly imported, one shilling duty." The 3d and 4th Anne, chap. 4. section 5. imposed an additional duty on tea of one shilling for every pound weight. The 10th of Anne imposed another additional duty on tea of two shillings for every pound. These acts were made perpetual by the 3d Geo. I. chap. 7. section 1. The 10th Geo. I. chap. 10. section 1-5. enacted, that the forementioned duties should cease, and instead thereof an inland duty was imposed of four shillings per pound weight upon all teas to be sold in *Great Britain*. This act was repealed by the 18th Geo. II. chap. 26, section 1 and 2. which enacted, that the inland duty of four shillings per pound upon tea, granted by the before recited act of the 10th Geo. I. chap. 10, should

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\* And whereas by an act made in the ninth and tenth years of the reign of King *William* the Third, (entitled, *An Act for raising a sum not exceeding Two Millions, upon a Fund, for Payment of Annuities, after the Rate of Eight Pounds per Centum per Annum, and for settling the trade to the East Indies*) and by several other Acts of Parliament which are now in force, the said united Company of Merchants of *England* trading to the *East Indies* are obliged to give security, under their common seal, for the payment of the duties of customs upon all unrated goods imported by them, so soon as the same shall be fold; and for exposing such goods to sale, openly and fairly, by way of auction, or by inch of candle, within the space of three years from the importation thereof: And whereas it is expedient that some provision should be made to permit the said united Company, in certain cases, to export tea, on their own account, to the *British* plantations in *America*, or to foreign parts, without exposing such tea to sale here, or being charged with the payment of any duty for the same; be it therefore enacted by the Authority aforesaid, That from and after the passing of this act, it shall and may be lawful for the Commissioners of his Majesty's Treasury, or any three or more of them, or the

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High Treasurer for the time being, to grant a license or licenses to the said united Company, to take out of their ware houses such quantity or quantities of tea as the said Commissioners of the Treasury, or any three or more of them, or the High Treasurer, for the time being, shall think proper, without the same having been exposed to sale in this kingdom; and to export such tea to any of the *British* colonies or plantations in *America*, or to foreign parts, discharged from the payment of any customs or duties, whatsoever; any thing in the said recited act, or any other act, to the contrary notwithstanding.

Provided always, and it is hereby further enacted, by the authority aforesaid, That a due entry shall be made at the Custom-House, of all such tea so exported by licence, as aforesaid, expressing the quantities thereof, at what time imported, and by what ship; and such tea shall be shipped for exportation by the proper officer for that purpose, and shall, in all other respects, not altered by this act, be liable to the same rules, regulations, restrictions, securities, penalties, and forfeitures, as tea exported to the like places was liable to before the passing of this act: And upon the proper officer's duly certifying the shipping of such tea to the Collector and Comptroller of his Majesty's Customs for the port of London, upon the back of the licence, and the exportation thereof, verified by the oath of the husband or agent for the said united Company, to be wrote at the bottom of such certificate and sworn before the said Collector and Comptroller of the customs (which oath they are hereby empowered to administer) it shall and may be lawful for such Collector and Comptroller to write off and discharge the quantity of tea so exported, from the warrant of the respective ships in which such tea was imported.

Provided nevertheless, that no such licence shall be granted, unless it shall first be made to appear to the satisfaction of the Commissioners of his Majesty's Treasury, or any three or more of them, or the High Treasurer for the time being, that at the time of taking out such teas, for the exportation of which, a licence or licences shall be granted, there will be left remaining in the warehouses of the said united Company, a quantity of tea not less than ten millions of pounds weight; any thing herein, or in any other act of parliament, contained, to the contrary thereof notwithstanding.

3 should cease, determine, and be no longer paid or payable. And in lieu thereof "one shilling per pound weight, and also a further duty of 25l. for every 100l. of the gross price at which such tea shall be sold, was imposed. These duties were to be paid upon the sale, before the tea was to be delivered out of the warehouses. The 9th and 10th William III. chap 44. section 69. enacted, That the company should give security, that all goods and merchandizes belonging to the company, which shall be imported from *India* into *England* or *Wales*, shall by them be sold publicly, by inch of candle, upon pain that the same be forfeited. The 2d and 3d of Anne, chap. 9. section 6, enacts, that security be given by the company to make the sale of their merchandizes in twelve months after their arrival.

These twelve months were increased to three years, by 7th Geo. I. chap. 21. section 11. Thus stood the law respecting the sale and duty on the tea before the act passed the last session of parliament.

From the acts I have enumerated, as well as those recited in the act in the notes, it is indisputable, that the company before the passing of this act, was chargeable by 18th Geo. II. chap. 26. with the payment of two duties on tea, upon its importation into *England*. That they were obliged to give security for the payment of these duties on the sale. That this sale must be made openly, by inch of candle, within three years from the importation. The design therefore of the legislature was to enable the company to export their tea, when they have ten millions of pounds in their warehouses, without making sale of it, and without being subject to the penalties they were subject to in default of their making the sale, &c. and to discharge them from the payment of the duties they were chargeable with upon such sale. This is evident, because the words "discharged from the payment of any customs or duties whatsoever," evidently refer to the recitals of their being charged, and imply the customs and duties they were chargeable with, otherwise it would be absurd to discharge them from the payment of what they were not before chargeable with. But as they were not chargeable there with the *American* duty, they are not discharged from the payment of it. The necessity of using the word "whatsoever," without its including the revenue act, will appear to any one who considers that that word was necessary to go to all the acts that subjected tea to duties upon importation into *Britain*. Because if the enacting clause of the late act had only referred to the 18th Geo. II. that imposed the last duties on tea, the 10th Geo II. that was repealed by this, and imposed the inland duty on tea, would revive and be in force; and if it had referred only to these two last acts, the 3d Geo. I would be revived, and if it had rested here, the other acts would have emerged. So that no word of less force or universality would prevent the operation of those acts, and therefore to prevent that, and to discharge the company from the payment of the *British* duties, the words "any customs or duties whatsoever," were used.

The doctrine of the celebrated Blackstone accords with this reasoning. His words are, "If a statute, that repeals another, is itself repealed afterwards, the first statute is hereby revived, without any formal words for the purpose"<sup>\*</sup>. For this reason the words, "any thing in the said recited act, or any other act to the contrary notwithstanding" were used. For if the recital had rested with the 9th and 10th of William III. chap. 44. which is the only act fully recited, the 2d and 3d of Anne, and the 7th of Geo. I. chap. 21. the last of which indulged the company with three years time to sell their tea, would have operated, and therefore the company, without those general words, would have been obliged to sell their tea, before they could export it; and have been subjected to the penalties mentioned in those acts. Whoever then ignorantly imagines, or wickedly propagates the report, that the words, "any thing in the said recited act, or any other act, to the contrary notwithstanding," includes the *American* revenue act, cannot have read the act in controversy with due attention, or

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designedly conceals the truth. For the words, “any customs or duties whatsoever,” go to the duties designed to be discharged, as abovementioned, “any thing in the said recited act or any other act to the contrary notwithstanding” to the security the company were obliged to give, and the sale they were otherwise to have made, and not to the acts imposing duties on tea. This construction is evident; because the “duties and customs” would not go to the security, penalties, and sales, which were absolutely necessary to be referred to, and because the words, “any thing in the said recited act,” which begin this part of the clause, go to the 9th and 10. of William III, which imposes no duty to the government on tea; and therefore it was not intended to refer to the 7th Geo. III. The existence and force of the *American* revenue-act, will be farther demonstrated by considering the legal and common sense of the word *Export*. *Import* and *Export* have as distinct and different significations in the acts of trade, and in common use, as coming in and going out of the same door; and therefore it would be confounding all ideas, and language, and an affront to common sense, to suppose them to mean the same thing; and much more so, to insinuate that to export tea to any *British* colonies or plantations in *America* or to foreign parts, is the same as to *import* it into the colonies, or foreign parts; because the former may exist, and the latter not. The tea exported from *England* to *America* may not arrive, and consequently not be *imported* into *America*. *Blackstone* tells us, in the construction of law, “words are generally to be understood in the usual and most known signification, not so much regarding the propriety of grammar, as their popular and general use<sup>§</sup>.” The legal and popular use of the words, *export* to *America*, in the present controversy, is to ship in or send from *England* to *America*; and of the words *import* into *America*, the arrival or receiving of the tea in it. The company being discharged from the payment of any duties and customs whatsoever upon their *exporting* tea to *America*, which they were chargeable with upon the importation into, and sale of tea in *England*; and which they did not pay as the tea was *not sold*, does not by any construction of reason or law, discharge them from the payment of the *American* duty; because this is not due by the revenue-act, but upon the tea's being “imported from *Great Britain* into any colony or plantation in *America*.” For any man then to say, that to *export* tea from *England* to *America*, is the same as to *import* tea into it; is as absurd as to say the tea *arrives here* upon its leaving *England*. The contrary of which is distinguished even by idiots. It is a well known maxim in law, “that no law repeals another, without reciting the law repealed<sup>‡</sup>, or that the words are so strong, absolute and violent, that no other but a repealing construction can be given to it, nor any other good end be answered by the law.” The truth of this must appear at first

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\* Commentaries, Vol. 1, Page 90.

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§ Commentaries, Vol. 3. Page 59.

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‡ 7th Geo. III. chap 46.

4 Nov 19 1772 S first view, for otherwise if one law was to repeal another, the sense of the lawgiver would be precarious, and an utter uncertainty of law would be the consequence. The law passed the last session does not in any manner recite the revenue-act; and the enacting clause is entirely silent on the importation of tea into *America*, and it is so free from violent words that imply a repeal of the 7th Geo. III, that there are not any in it of that complexion. And that law, when the company have ten million pounds of tea in their warehouses, upon their exporting it, exempts them from the penalties of other laws, saves them the expence of the sale of their tea, and discharge them from the payment of the duties they were *chargeable* with, which is in effect a *drawback* to them, as well as the duties are to other exporters. These are very important ends that will be answered to the company by the late law, and therefore, for these and those reasons, the revenue-act, by that rule of law, is not repealed. But let it be granted, for argument's sake, that the words of the late law are doubtful and uncertain, although the contrary hath been proved, how shall we establish their meaning? *Blackstone* says, that "if words happen to be still dubious, we may establish their meaning from the context, with which it may be of singular use to compare a word or sentence, whenever they are ambiguous, equivocal or intricate. Thus the proeme or preamble is often called in to help the construction of an act of parliament"<sup>\*</sup>. The preamble and recitals of the late act, respect only the laws regulating the security the company was to give, the sales of their tea, and the payment of duties. There is not one word in the preamble, that with the most *forced* and *violent* construction can be applied to the revenue-act; and therefore by this rule of law also, it is not repealed. This construction is greatly inforced by the express declaration of the act, that the tea "shall be liable to the same rules, regulations, restrictions, securities, penalties, and forfeitures, as tea exported to the like places was liable to before the passing of this act;" which clause clearly refers to what it was previously subject to, on its importation to the colonies, and the only clause in the act that can give the least countenance to the contrary construction, is clearly satisfied, as hath been proved, by restricting the proviso for discharging it from "the payment of any customs and duties whatsoever," to those customs and duties to which it was liable by the acts recited in the late act, that is, to the customs and duties in *England*, which is the only object the legislature had in contemplation, and the only duties it was intended to relieve the company from. And this construction is farther inforced by no *provision* being made in the late act, to *designate* to the collectors in *America*, the *company*'s tea, from the tea of any other *exporters*; which was absolutely necessary, in order to determine what tea *shall* and shall *not* be subject to the payment of the *American* duty. For as it is not disputed but the tea exported by other merchants is *subject* to the payment of it, some *criterion* should have been made by the *late* law, if the company's tea is freed by it from the *American* duty, to *distinguish* it. But as there is no such *mark* in the act the company's tea is not *freed* from the *American* duty. This is farther confirmed, as no means were used to prove the *contrary* by the *India* company, or the merchants in *England*, to whom the *American* ships were addressed, to undeceive their captains, whose *sole reason* for refusing to take the tea on board was, it's being subject to the *American* duty.



Thus I have proved to you that the legislature did not intend, nor has it by the late act repealed the revenue-act. That by the *principles* of law, and the construction put on that act in *England*, the 7th Geo. III. is still in *force* and therefore I have convicted *Poplicola* of four infamous falsehoods. I can now with the greatest propriety retort the question to *Poplicola*. Had it been the intention of the legislature to include the duty so much complained of in the enacting clause, we should find express words to include the revenue act. "But no such words can be found." In the restrictory clause (as he is pleased to call it) the legislature mentions no *American* imposts, customs, or duties, which are affected by this exemption. We therefore conclude, that the company not being exempted from the payment of any *American* duty on importation, must of course be chargeable with the duties arising from the revenue-act. This he tells you is "the greatest incumbrance" to the sale of the tea, and for once you may believe him. I hope he and his fellow parasites will not be disappointed in their fears. He informs you, that to "say the *East India* company is liable to the payment of a duty on exportation, and yet that it is permitted to export it discharged from any customs or duties whatsoever, is as strong a contradiction as words can bear." Who but the lying, infamous and sophistical *Poplicola*, says, that the company is liable to the payment of a duty on exportation? It is said, and with great *truth*, that they are *liable* to pay the *American* duty on the importation of their tea into it. Thus he states an objection that was never made by any, that are opposed to the importation, in order that he might triumph in representing the absurdity of it, and mislead the ignorant. Fye, *Poplicola*, fye, you are a disgrace to human nature; and tho' I do not believe you have courage enough to rob on the high-way, yet I doubt not but your meanness would induce you to pick pockets. Having now fully answered every thing worthy of notice in *Poplicola*'s address, and detected him in five falsehoods on a subject of the most interesting nature to your felicity; and proved that the *American* revenue-act is not repealed; I cannot entertain the least doubt but you will treat him and his lying confederates with that disregard and contempt their wicked artifices deserve. I have bound the victim; it lies with you to make the sacrifice. The language of the revenue-act is, that you have no property which you can call your own, that you are the vassals, the live-stock of the people of *Great Britain*. The execution of it will therefore render you the most contemptible and mortified slaves, the fun ever beheld. If you suffer this, better, far better, would it have been, if you had never opposed the tyranny of *Britain*. Then you might have plead your ignorance, but now you are without excuse, fully informed of the dangerous nature and consequences of those machinations, that threaten all *America* with worse than *Egyptian* slavery. Therefore I doubt not but you will conduct yourselves in this alarm-in crisis, with that wisdom and resolution, that become men who have their all, and the reputation of the colony at stake. I am,

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\* *Blackstone's Com.* Vol. I. pa. 60.

BRETHREN, *Your affectionate fellow-citizen*, A STUDENT OF LAW.

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*New-York, Nov. 19, 1773.*

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