



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

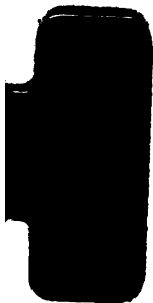
277

300.13

x. 147

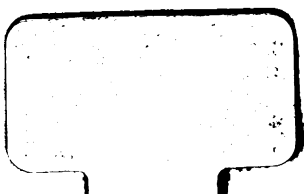
b.

CRAB



55. b. 33.
Am. Lib.

300.13 T. 147



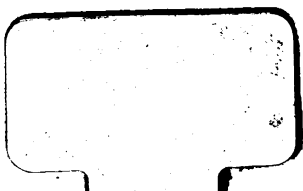


CRAB



55. b. 33.
Ann. Lib.

300.13 r. 147





Galloway, (Joseph)

300-13

América

CANDID EXAMINATION
OF THE
MUTUAL CLAIMS
OF
GREAT-BRITAIN,
AND THE
COLONIES:

WITH
A P L A N
OF
ACCOMMODATION,
ON
CONSTITUTIONAL PRINCIPLES.

NEW-YORK:

Printed by JAMES RIVINGTON, M,DCC,LXXV.



MY DEAR COUNTRYMEN,

WHEN we see the country we live in, where agriculture, elegant and beneficial improvements, philosophy, and all the liberal arts and sciences have been nourished and ripened to a degree of perfection, astonishing to mankind; where wisdom and sound policy have even sustained their due authority, kept the licentious in awe, and rendered them subservient to their own, and the public welfare; and where freedom, peace and order, have always triumphed over those enemies to human happiness, oppression and licentiousness; now governed by the barbarian rule of frantic folly, and lawless ambition: When we see freedom of speech suppressed, the liberty and secrecy of the press destroyed, the voice of truth silenced: A lawless power established throughout the colonies, forming laws for the government of their conduct, depriving men of their natural rights, and inflicting penalties more severe than death itself, upon a disobedience to their edicts, to which the constitutional magistracy, in some places by force, and in others willingly, submit:—The property of the subject arbitrarily, and without law, taken from him, in pursuance of those edicts:—When, under their influence, America is arming in the east and west,

A

against

against the parent state :—I say, when we see the colonies, needlessly, and while the path to their safety and happiness is plain, and open before them ; thus pushing on with precipitation and madness, in the high road of sedition and rebellion, which must ultimately terminate in their misery and ruin : It is the duty of every man of the least abilities, to try to reclaim them from their folly, and save them from destruction, before it be too late.—With this design I am resolved to review the most important controversy, that ever was agitated between a state and its members ; in hope, that my countrymen, too long seduced from their true interest, by false tho' specious arguments, will, at length, listen to reason and truth, and pursue those measures only, which lead to their safety and happiness.

In a controversy of so great moment, it is of the first importance to ascertain the standard by which it ought to be decided. This being unsettled, the merits can never be determined, nor any just decision formed. Hence it is, that we have seen all the American writers on the subject, adopting untenable principles, and thence rearing the most wild and chimerical superstructures. Some of them have fixed on, as a source from whence to draw American Right, “ the laws of God and nature,” the common rights of mankind, “ and American charters.” Others finding that the claims of the colonies could not be supported upon those pillars, have racked their inventions to find out distinctions, which never existed, nor can exist, in reason or common sense : A distinction between a right in parliament to legislate for the colonies, and a right to
tax

tax them—between internal and external taxation—and between taxes laid for the regulation of trade, and for the purpose of revenue. And after all of them have been fully considered, even the authors themselves, finding that they have conveyed no satisfactory idea to the intelligent mind, either of the extent of parliamentary authority, or of the rights of America, have exploded them, and taken new ground, which will be found equally indefensible. I shall not attempt to account for a conduct which must appear so strange, when it is considered, that the subject itself naturally, and familiarly, led to the only just and proper means of deciding it. It is a dispute between the supreme authority of the state, and a number of its members, respecting its supremacy, and their constitutional rights. What other source to draw them from, or standard to decide them by, can reason point out, but the principles of government in general, and of that constitution in particular, where both are to be found, defined and established? Whoever searches for them elsewhere, will search for them in vain, and ever confound the subject, perplex himself, and bewilder the reader.

In order then to ascertain the constitutional extent of parliamentary authority; to determine whether the colonies are members of the British state; and if they are, to mark out their just rights, and to propose a remedy to reconcile them, upon principles of government and liberty; it is necessary, first, to delineate those principles, which are essential in the constitution of all societies, and particularly in that of the British government.

There is no position more firmly established, in the conduct of mankind, Than that there must be in every state a supreme legislative authority, universal in its extent, over every member. This truth, the principles upon which all governments from the earliest ages have been established, uniformly demonstrate. This truth, the authority of all authors of credit will ever support.—This truth, the nature and reason of civil societies will forever evince. Tully gives us this definition of government, “*Multitudo juris consensu et utilitatis, communione sociata.*” A multitude of people united together by a communion of interests, and *common laws* to which *they all submit with one accord.*” Mr. Locke tells us, that “the first fundamental positive law of all commonwealths is, the establishing the legislative power. This legislative is not only the supreme power of the common-wealth; but is sacred and unalterable in the hands where the community have placed it.” And in another place, he says, “there can be but one supreme power, which is the legislative, to which all the rest are, and must be, subordinate.” The judicious Burlamaqui, in treating of the essential constitution of states, and of the manner in which they are formed, declares that in forming a society, “it is necessary to unite forever the wills of all the members in such a manner, that from that time forward they should never desire but one and the same thing, in whatever relates to the end and purpose of society. It is afterwards necessary, to establish a supreme power, supported by the strength of the whole body. That it is from this union of wills and strength, that the body

“ *body politic, or state, results; and without it we*
 “ *could never conceive a civil society.* That the
 “ *state is considered as a body, or moral person,*
 “ *of which the Sovereign is the chief head, and*
 “ *the subjects are the members.*” And afterwards,
 in another part he says, “ The state is a body,
 “ or society, animated by *one soul*, which directs
 “ *all its motions*, and makes *all its members* act af-
 “ *ter a constant and uniform manner*, with a view
 “ *to one and the same end*, namely the *public uti-*
 “ *lity.*” And in another chapter, speaking of
 the characters of sovereignty, its modifications
 and extent, he avers, “ that in every govern-
 “ ment there should be such a *supreme power*, is
 “ a point absolutely *necessary*; the very nature
 “ of the thing requires it; otherwise *it is impos-*
 “ *sible for it to subsist.* That this power is that
 “ *from which all others flow*, it being a supreme
 “ and independent power; that is, a power that
 “ judges finally of whatever is *susceptible of hu-*
 “ *man direction*, and relates to the welfare and
 “ advantage of society.” And Acherley, in his
 treatise on the Britannic constitution, proves with
 great strength of argument, “ That the *supreme*
 “ *power* in every government and nation, is the
 “ *legislative power of making and altering those*
 “ *laws* of it, by which *every man is to be bound,*
 “ and to which he is to *yield obedience.*”

The evidence of all other authors of credit,
 even of those the most attached to republican
 forms of government, might be adduced, to de-
 monstrate the same truths; but this must be un-
 necessary, when we refer to the forms of all civi-
 lized societies, whether monarchical, aristocrati-
 cal, democratical, or mixed; and there find a
 sovereign

sovereign legislature established, to which it is the duty of *every member uniformly to yield obedience*. A due attention to this universal principle, which seems too firmly settled to be shaken by any sophistical distinctions, would have saved the American writers from all their numerous absurdities. It would have shewn them, that the legislative authority in every government must of necessity be *equally supreme over all its members*.—That to divide this supremacy, by allowing it to exist in some cases, and not in all,—over a part of the members, and not the whole,—is to weaken and confound the operations of the system, and to subvert the very end and purpose for which it was formed; in as much as the vigour and strength of every machine, whether mechanical or political, must depend upon the consistency of its parts, and their corresponding obedience to the supreme *acting power*: And it would have shewn that there can be no alternative; either the colonies must be considered as complete members of the state, or so many distinct communities, in a state of nature, as independent of it, as Hanover, France, or Spain.

That there is such a supreme power established in the British society, which has from the time of its origin, exercised this universal authority over all its members, will not be denied. But where it is lodged; what are its modifications; and what are the powers subordinate to it, is a necessary enquiry. It will lead us to those principles which must decide many important questions in this great controversy; and in particular point out the absurdity, in the colonists, when they

they acknowledge allegiance to the King, and deny obedience to the laws of parliament.

The government of Great-Britain is of a particular kind. There is none now in the world like it. It is of a mixed form, composed partly of the principles of a monarchy, aristocracy, and democracy; and yet cannot with propriety be described, by the name of either of them. Its supreme legislative head is *lodged* in the King, Lords and Commons. To their authority every other power of the state is subordinate, and every member must yield full and perfect obedience. These three branches constituting but one supreme politic head, their power is equal and concurrent; their joint assent being necessary to the validity of every act of legislation. So that even in this department of the state, which is the highest and first in order, the King is not supreme; being only one of three equal in power. It cannot therefore be to the King, as legislator, that the colonists owe obedience and allegiance; because he has no such complete, independent capacity; he is not, by the constitution, a legislator, but only a part of one; and to submit to the power of a *part*, and not to the *whole*, is too great an absurdity for men of sense to adopt.

But as the legislature does not always exist, it could avail little, without some power to superintend the execution of its regulations. The appointment of a representative of the whole state, to see that its laws are duly carried into execution, was absolutely necessary. The King is that representative; and as such is vested with the executive power of the British government. But this power is a subordinate one, and perpetually

tually liable to the alterations and controul of the supreme legislative authority; whose will, enacted into laws, is the sole guide and rule of its actions. Mr. Locke tells us, that the King "is to be considered as the image, phantom, or *representative of the common wealth, and by the will of the society declared in its laws, and thus has no will, no power, but that of the law.*"

To him, in this representative capacity, and as supreme executor of the laws, made by a *joint power of him and others*, the oaths of allegiance are taken; and by him, that obedience in the subjects to the laws, which intitle them to protection in their persons and properties, is received. Is it then to him, as representative of the state, and executor of its laws, that the Americans profess their allegiance? This cannot be; because it would be owning an obedience to the laws of the state which he represents, and is bound to execute, and of which they uniformly deny the force and obligation. Hence these professions are not made to him either in his legislative, or executive capacities; but yet it seems they are made to the King. And into this distinction, which is no where to be found, either in the constitution of the government, in reason or common sense, the ignorant and thoughtless have been deluded ever since the passing of the stamp-act, and they have rested satisfied with it without the least examination; for we find it in all the resolves and petitions of the American assemblies, town meetings, provincial committees, and even in the proceedings of the continental congress. And such have been the unhappy

happy effects, that we have seen the officers of justice in America, who have taken the oaths to the British government, resolutely opposing the execution of those very laws, which they have sworn to obey and execute; and thus unwittingly sliding into the most palpable perjuries. I do not mean to offend the inventors of this refined distinction, when I ask them—Is this acknowledgment made to the King, in his politic capacity, as King of Great Britain, or of America? If to him in the first, it includes a promise of obedience to the British laws, as I shall more fully prove hereafter? If in the second, as King of America; when did he assume that title, and by whom was it conferred? When was he crowned? On the contrary has he not invariably denied the existence of any such capacity in him, by an uniform conduct, in exerting his authority, to execute the British statutes in America?

In his representative capacity, the King also holds the great seal, or the seal of the state, and has right to affix it to all acts of the legislature, and such as he is impowered to do by his prerogative, and *no other*. He has also certain prerogatives, which are defined and known. By one of them he has right, under the great seal; to form any circle of territory, within the realm, and the subjects on it, into inferior bodies politic, and to vest them with the power to make municipal laws, for the regulation of its internal police, so far as it relates to the welfare of that circle only: But by no means to discharge them from their obedience to the supreme legislative authority. Because this would be to weaken, dismember, and in the end destroy the state, contrary

try to the intent for which the prerogative was vested in him, namely, the public good and safety.

Having thus established the necessity of a supreme legislative authority in every government, and shewn that it is an essential principle in the English state, and explained such other parts of the constitution as are necessary to my purpose, let us next enquire whether the colonies of right are members of that state, or so many independent communities in a state of nature, with respect to it. For seeing a legislative authority competent in all cases whatsoever, over every member, is necessary in every government; the colonies must stand in one or other of these predicaments.

The lands upon which the colonies are established must be considered, as they truly are, either discovered, or conquered territories. In either case the right of property is in the state, under the license or authority of which they were discovered or conquered. This property being vested in the state, no subject can lawfully enter upon, and appropriate any part of it to his own use, without a commission or grant from the immediate representative for that purpose. Hence we find in the histories of all civilized states, from the earliest ages to this day, the heads, or representatives of all governments, distributing such lands, by special grants, among their people, who in every instance which history affords, still retain the duties of subjects: And there is no position better established by the practice and usage of all societies, than that where a subject removes from one part of the territory of a government, to another part of the same,

His political rights and duties remain as before, but where the subject of one state removes to the territory of another, and settles there, his political rights and duties are changed from those of the state from whence he removed, to those of the state under which he settles, and from which he receives protection. No person acquainted with politic law, or the practice of societies, in these respects, will assert the contrary. What then are the circumstances of America? Under what authority was it discovered? What was the intent of the discovery? By whom, and under what authority, has it been settled? A decision of these questions will lead us to a very important truth, viz. That the colonies are of Right members of the British government.

America was discovered in the latter end of the 15th century, by Sebastian Cabot, authorised for that special purpose, under the great Seal of the state, affixed to his commission, by Henry 7. Representative of the British government. The *signature* of the great seal fully proves that the King did not in the granting this commission, consider himself as acting in his private, but, in his politic capacity. In the first he had no right to affix it, in the second he had. The design in view, was to encrease the territories, extend the commerce, and add to the wealth and power, of the state. And therefore the discovery was made to the use of the state, and the territories became immediately subject to its supreme authority. No man in his sober senses will, I imagine, affirm that Henry 7. had in view the discovery of a country, into which his successors might give license to the members of the state to emigrate, with in-

tent to become independent of its authority. Such a design is too absurd to be supposed ever to have been admitted into any system of policy, much less that of a Prince so justly famed for his wisdom.

Every colony in America, as well those under charters, as other, has been settled under the licence and authority of the great seal, affixed by the representative of the body politic of the British state. The property of the territory of America being in the state, and its members removing under its authority from one part of it to another, equally subject to its supreme jurisdiction; they of consequence, brought over with them all their political rights and duties, and amongst the rest, that of perfect obedience to its laws:—nor could they be lost or changed by an alteration of their local circumstances. Indeed nothing can be more explicitly confessed than this truth, in all the American declarations of their rights. I shall cite only those of the congresses which met at New-York in 1765, and at Philadelphia in 1774. By the first we are told, “that his Majesty’s subjects in these colonies are entitled to all the inherent rights and liberties of his natural born subjects within the kingdom of Great-Britain.” And in the second, “That our ancestors, who first settled these colonies, were, at the time of their emigration from the mother-country, entitled to all the rights, liberties and immunities of free and natural born subjects within the realm of England.” And “that by such emigration they by no means forfeited, surrendered, or lost any of those rights.” Thus evidently deducing their title to their right, from

from the relation they bore, as members of the mother state. Conscious that they could not deduce them from any other source but the English government, as they no where else exist, they claim them under its title and authority. But can the wisest among them inform us, by what law, or upon what principle, they claim rights under the British government, and yet deny the obligation of those duties which subjects of that government owe to it? The rights and duties of the members of all societies are reciprocal. The one is the continuing consideration for the other. Either of them being destroyed, without the consent of the subjects to which both of them adhere, the other ceases. Therefore, should a state arbitrarily deprive its members of their just rights, and refuse to restore them, after it has been repeatedly, and respectfully required so to do, then their duties and obedience to the state cease, but not before: It being the design of every society, when formed, that its existence should be permanent, not of a temporary duration.

Here we may perceive some of those many inconsistencies and absurdities in which the advocates of America have weakly involved her cause. We see them calling the subjects in America, "subjects of his Majesty," in his political capacity, and as representative of the British state, bound in duty to execute its laws, in every part of its dominions; and in the same breath denying obedience to those laws. We see them claiming "all the inherent rights and liberties of natural-born subjects" of the state, and denying the force of those duties, which are inseparably united with those "rights and liberties."

evidence of a denial, or confirmation of the principles I have maintained. And here we shall find, that the prerogatives of this supreme representative of the state, ever since the first settlement of the colonies, have been uniformly exercised, and submitted to, in all the colonies. All their political Executive powers have been derived from, and all their governments established by, it. It is in this representative capacity that the King has granted all the charters, appointed the governors, custom-house officers, &c. and granted authority to the governors to commission the inferior officers of justice, as well judicial as ministerial. From this source only all his legal powers, in respect to the colonies, can be drawn; there being no other capacity vested in him, from whence he could derive them. So that every officer in America, appointed by him, or under his authority, is truly the inferior and subordinate delegate of the King, Lords and Commons; receiving his authority from the supreme executive representative of the British state; all their powers being originally derived from, and limited by, its constitution and laws.

Upon the same principle, the supreme legislature has, upon many occasions, and at a variety of times, held forth and exercised its authority over the colonies; and they have yielded obedience to all the British statutes, in which they have been named; as well those imposing taxes on them, as those for regulating their internal police. The learned judges in England, and the judges and other officers concerned in the administration of justice in America, in conformity to this idea, of their being the inferior delegates

legates of the British state, and of its authority over the colonies, have ever made those laws of parliament, where by words they have been extended to them, the rest of their decisions, in all American disputes, without doubt or hesitation, until the year 1765, when our unhappy controversy commenced.

All the officers of government, every member of assembly, every foreigner before his naturalization, had always taken the oaths of allegiance, under the directions of the statutes, that have been made for that purpose. The words of the oath are the same with that administered to the subject in Britain, on the like occasions; and consequently must be of the same import, and carry with them the same obligations in every respect. Both in Britain and America the oaths are taken to the King, not in his private, but politic capacity; they are taken to him as representative of the whole state, whose duty it is to superintend the administration of justice, and to see that a faithful obedience is paid to the laws. These oaths are no more than renewals of the original covenant, upon which all governments are formed; For in the constitution of all societies two covenants are essential; one on the part of the state, that it will ever consult and promote the public good and safety, and the other on the part of the subject, that he will bear fidelity and true allegiance to the *sovereign, or supreme authority*. "This last covenant," says the judicious Burlamaqui, "includes a submission of the *strength* and *will* of each *individual* to the *will* and *head* of the society, as far as the public good requires," and thus it is that a *regular state*, and

"and perfect government is formed." And the words of Mr. Locke are equally apposite, "The oaths of allegiance are taken to the King, it is not to him as supreme legislator, but as *supreme executor of the law*, made by a joint power of him and others; allegiance being nothing but *obedience according to law*, which, when he violates, he has no right to obedience, nor can claim it otherwise than in his *public person*, vested with the power of the law." And in another place he says, "That all obedience which by the most solemn ties any one can be obliged to pay, *ultimately terminates in the supreme power of the legislature*, and is directed by those laws which it enacts." This being the nature of the oath of allegiance, and of the obligations it enforces, no man of any understanding will call for further proof, That all the officers of government in America, who have taken these oaths, and those who have submitted to their administration, while they were executing the British statutes, considered themselves as subjects of the state, owing obedience to its legislative authority.

In every government, protection and allegiance, or obedience, are reciprocal duties. They are so inseparably united that one cannot exist without the other. Protection from the state demands, and entitles it to receive, obedience and submission to its laws from the subject. And obedience to the will of the state, communicated in its laws, entitles the subject to its protection. A just sense of this truth has governed the conduct of the state towards the colonies, and that of the colonies towards the state, ever since their settlement.

settlement. The colonists have not only settled upon the lands of the state, under its licence and authority, granted by its representative; but they have been fostered, nourished and sheltered under its wings, and protected by its wealth and power. And as they have ever yielded obedience to its laws, they have, whenever in danger, called for its protection; and in the last war were saved from all the misery and slavery, which popish superstition and tyranny could inflict, when their inability to save themselves was universally known and acknowledged.

Seeing then that the colonies have, ever since their existence, considered themselves, and acted as perfect members of the British state, obedient to its laws, untill the year 1765: There must, one would imagine, be something lately discovered, which has convinced them of their mistake, and that they have a right to cast off their allegiance to the British government. We can look for this in no place so properly, as in the late declaration of American rights. Here we find they are drawn from "the immutable laws of nature, the principles of the English constitution, and their several charters, or compacts." Should we fail in discovering it here, we may safely determine it is not any where to be found. We shall not find it in "the laws of nature;" the principles upon which those laws are founded, are reason and immutable justice, which require a rigid performance of every lawful contract;—to suppose therefore, that a right can thence be derived to violate the most solemn and sacred of all covenants; those upon which the existence of societies, and the wel-

c 2

fare

fare of millions depend; is, in the highest degree, absurd. And, I believe, we shall be equally unsuccessful in searching for it in the principles of the English constitution; because that constitution is formed to bind all the members of the state together, and to compel an obedience to its laws.—We must therefore find it in the American charters or compacts, or no where. And after we have looked there, we can discover no exemption, or discharge from the authority of parliament in any of them, save one, and there it is only partial; while other parts of the same charter declare the contrary, and expressly retain the submission of the subject to the British laws. But suppose there had been such an exemption in all of them, as clear as words could express it, it is a question which demands a solution, whether the King had a right, by the constitution, to grant it.

The original intent of the prerogative, under which the inhabitants of particular districts of territory have been incorporated into bodies politic, was to enable the representative of the state, to form inferior communities, with municipal rights and privileges. This was necessary to enable the executive power to carry into execution the operations of government with regularity and order. And in some instances it has been beneficial in promoting the trade, arts, and particular pursuits in business of such districts.—This prerogative is very ancient, and well defined by usage and prescription. London held peculiar privileges long before the conquest. William the conqueror granted to that city two charters soon after. A great number of inferior societies

societies have been since incorporated, by succeeding Kings, upon these principles; all of them under the great seal, and by the same authority under which the American charters were granted. Having so many precedents before us, we cannot be at a loss to ascertain the extent of this prerogative. The exercise of it for so many centuries will give satisfaction to every candid enquirer. Making this the test of decision, we shall find that no King has ever presumed to grant more than merely municipal powers and privileges, always leaving the subjects and the territory incorporated, under the supreme legislative authority. There being no traces of a farther extent of this prerogative; in the conduct of all the British Kings; the conclusion is, that no such power does, or ever did exist. Besides, this prerogative, like all others, is vested in the King, in trust, to promote, not to injure, the public good. And therefore, to assert that he may, under it, discharge these incorporated societies from their obedience to the supreme power, is to contend that, by virtue of the power which he holds in trust to strengthen, he may weaken,—and instead of maintaining and defending, he may destroy, the common wealth; which involves the most palpable contradiction.

Sufficient has been said to convince us, that the Kings of England can have no authority to discharge inferior bodies politic, from parliamentary authority. But upon a satisfactory decision of the question, the claim of independency must stand or fall, I shall farther corroborate what I have said, with the most respectable authorities. The learned Pufendorf tells us,
 “ With

“ With regard to all *lawful bodies*, it is to be ob-
 “ served, that whatever right they possess, or
 “ whatever power they hold over their members,
 “ is all under *the determination of the supreme au-*
 “ *thority*, which it ought on *no account to oppose,*
 “ *or over-balance.* For otherways, if there could
 “ be a body of men, not *subject to the regula-*
 “ *tion of the civil government*, there would be a
 “ *state within a state.*—If we look on these bo-
 “ dies, or systems, in a state already settled, we
 “ are then to consider what was the *intent of the*
 “ *supreme Governor*, in founding, or confirming,
 “ such a company. For if he hath given, or
 “ ascertained to them, in express words, *an ab-*
 “ *solute and independent right*, with regard to
 “ *some particular affairs* which concern the *pub-*
 “ *lick administration*; then he hath *plainly* ABDI-
 “ CATED *part of his authority*, and by admitting
 “ *two heads* in the constitution, hath rendered it
 “ *irregular and monstrous.*” Mr. Locke says,
 “ That the legislative authority *must needs be su-*
 “ *preme*; and *all other powers*, in any members,
 “ or parts of society, *derived from, and subordi-*
 “ *nate to it.*” And speaking of the King’s ex-
 “ ceeding his public trust, he affirms, “ That when
 “ he quits his *representative capacity*, his *public*
 “ *will*, and acts by his own *private will*, he de-
 “ grades himself, and is but a *single, private per-*
 “ *son, without power, without will, that has any*
 “ *right to obedience.*” And the same author would
 not scruple to declare, upon the principles he
 establishes in the latter part of his treatise: That
 a King who should have granted, in the American
 charters, a licence to the subjects of the state
 to emigrate, with a discharge from their obedience

to the legislative authority, and should open such a door to a desertion of the principal territory, and dissolution of its government, would thereby forfeit his crown; and to prevent the mischief of such grant, the people might resume their original authority, if the mischief could not otherwise be prevented.

I have said before, whenever a state refuses to give protection to its subjects, and maintain their rights, their duty ceases. It may with equal truth be affirmed, that whenever subjects shall refuse to perform those duties, and yield that obedience which they are bound to perform and yield by the constitution, or original compact of society, they forfeit not only their right to the protection of the state, but every other right or claim under it; and the government may either punish them agreeably to its laws, or cease its protection over them, and annul the rights and privileges they derive from it. There is no truth more evident than that where a mutual covenant subsists, including a consideration perpetually to be performed on both sides, upon which the validity of the covenant rests, if either party refuse the performance on his part, the other is discharged of course, and the party refusing loses his right and claim to the performance of the other. If this assertion be just, and that it is we shall find, whether we apply to the laws of nature, or civil societies,—into what a disgraceful predicament are the Americans thrown by a denial of obedience to the authority of parliament, which is one of the most essential duties! That they have not, as the congress affirms, forfeited, surrendered, or lost their rights, by their emigration,

emigration, is true.—But that this wise body of men have used their best endeavours, and pursued the most effectual measures to forfeit them, is equally true. Let us suppose that the late Congress had been a regular and legal representative of all America, vested with authority, by the consent of the colonists, to deny and withdraw their obedience to the laws of the British state, as they have endeavoured to do; would not Great-Britain be justifiable in declaring, by an act of state, that all the rights and privileges which the colonists derive under her, are forfeited? Shall the Americans have a right to withdraw from the state the performance of their duties, and the state be bound to continue *them* in the enjoyment of all their rights? Every principle of government and common sense denies it.

Thus, in whatever light we view the subject, whether we reason from the principles and policy upon which all governments are established, or those of the English constitution in particular;—the right of property in the territory,—the authority under which the colonists have been settled,—the persons by whom settled,—their rights under the several charters and compacts,—their conduct ever since their settlement, down to the year 1765,—or from the conduct of the state down to this day; we find that they are members of the British state, and owe obedience to its legislative authority.

That America has been wandering in a wrong path, bewildered among the erroneous principles upon which her advocates have attempted in vain to support her rights, is apparent from all her conduct; she began by denying the authority

city of parliament, to lay internal taxes:—But finding that ground not tenable, she next denied its power to lay either internal or external taxes: And at length has declared, that it can neither lay internal nor external taxes, nor regulate the internal police of the colonies. And yet such has been the implicit confidence,—such the infatuation of the unthinking and deluded people, that they have believed at the time, that all those principles were so many solid pillars—and supports of their rights, and *truths as sacred as those in holy writ.*

It would not be unreasonable to think, that the arguments before offered, to expose the present unhappy measures of the colonies, would be sufficient for that purpose. But however that may be, as I am convinced they lead to the ruin of my country, I think it my duty to take a more particular view of them. The claims made by the last congress, and upon which, it seems, all America now rests, are, “That the colonies
 “ are entitled to a *free and exclusive right, or power of legislation*, where their right of representation can alone be preserved, *in all cases of*
 “ *taxation and internal polity, subject only to the negative of their Sovereign, in such manner as has*
 “ *been heretofore used and accustomed.*” No words can convey a more perfect claim of independence, on the British legislature, than those I have just transcribed. Because there is no act within the power of any legislature to pass, binding on any member of the state, but what must, in either the regulation or execution of it affect the internal police. States may make laws for the government of their subjects, while in foreign countries,

tries, or upon the sea; but as those laws can only be executed within the society, there being no jurisdiction, no officer of justice without, they must be executed, and the penalties recovered within the community; its internal police affected by them, according to the nature of the penalties, and the mode of recovering, or inflicting them, and in the most sacred things, life, liberty and property; these being the objects upon which penalties are laid. If this be true, and the colonies have a "free and exclusive legislation, in all cases of internal polity," the legislature of Great-Britain can have no more authority over them, than the parliament of Paris; and the colonies are as independent of the one as the other. But it seems under this claim of right, though the legislature of Great-Britain, which is supreme in power, having no superior, as I have shewn, shall have no right to make laws for us, nor even to repeal an act of assembly, of the colonies, however inconsistent with the laws of England, or destructive to the rights and interests of the nation; yet the legislation of the colonies is to be subject to the *repeal of the King*. Does not this ill-founded claim involve the cause of America in an inextricable absurdity? Is not this acknowledging a power in an inferior, and denying it in the superior, from whom that inferior draws all its authority, and by whom all its prerogatives, rights, and powers are governed, and controuled? The King, by the constitution, has no capacity in which he does not represent the supreme legislature, or head of the state, as I have proved before. Nor can he assume any other

inconsistent

inconsistent with its rights. The power of repeal, being a compleat legislative act, he can draw it from no other fountain, but from his representation of the *whole legislative body*. Because as legislator, he holds only a third part of the right, and upon no ground of reason, or propriety, can an entire superior power be derived, from any part of the same power.

Here we have a full view of the plan of the delegates of North-America, which, when examined, appears to be that of absolute independence on the mother state. But conscious that a scheme, which has so great a tendency to a forfeiture of her rights, and so destructive to her safety and happiness, could not meet with the approbation and support of the colonists in general, unless in some measure disguised, they have endeavoured to throw a veil over it, by graciously conceding to the mother-state, a whimsical authority, useless and impracticable, in its nature. This is a state device, common to wrong-headed politicians, who have not reason and truth to support their pretensions. But the veil is too thin. The herbage is not sufficiently thick to conceal the covered snake, from the eye of the candid and sensible enquirer. But let us hear them. "But from the necessity of the case, and a regard to the mutual interest of both countries," not from any *constitutional right*, for this they have denied in the preceeding part of the resolve, in all cases whatsoever, "we consent;" but to what do they consent? "to the operations of," not to the right of making, "such acts of the British Parliament as are," not such as shall be hereafter, for they are, no doubt,

doubt, to receive the sanction of this wise and learned body, before they are valid, " bona fide " restrained, to the regulation of our external commerce, for the purpose of *securing* the " commercial advantages of the whole, (i. e. " of our commerce) to the *mother country*, and " the commercial benefits of its *respective members*." Here is more art and finesse, than an honest mind would wish to find in the conduct of any men, much less in those of character. It is easy to perceive from the import of these words, that should the British parliament be obliged to accept of their *concessions*, they concede nothing. They have taken especial care, that what they have consented to in one breath, should be blasted by the next. For there is no law of trade, that I know of, nor can such a law be formed, as shall *secure the commercial advantages of all the external American commerce* to the mother country, which is a part of the realm distinct from the colonies, and yet " *secure to the colonies,*" as members, their commercial benefit. It would not have been any great deviation from the public duty of these gentlemen, had they dealt less in mysteries, and explained what laws they were, which answered those excellent purposes. Surely they could not mean those statutes, which enumerate American commodities, and compel us to land them in Britain, before they can be exported to foreign markets; nor those which oblige us to purchase their manufactures, and forbid us to get them from other countries.—These are so far from "securing," that they greatly diminish the commercial benefits of the colonies; and I know of no other

other that "secure" the advantages of our commerce "to the mother country."—But suppose there are such laws, who are to point them out in the volumes of the statutes? Who is to say whether a law answers this description? Is the legislature of Great-Britain to do this? No. Who then?—Why, the assemblies.—But the assemblies are disunited, and may differ as they have done, even in matters which concerned their essential safety, and there is no constitutional union, declaring the voices of a majority, binding on all.—Why then, since it can be no other-ways, the point must be determined by an illegal, motley congress; some few of them to be appointed by the assemblies, if they can be so lost to their own, and the true interest of their constituents, as ever to appoint another; and the rest by a twentieth part of the people, the most ignorant and violent to be found among them. A blessed American constitution!

But should there be any such laws as the congress have described, it seems, they are to be still further limited, and to "exclude every idea of internal and external taxation, for raising a revenue in America." All the laws of trade, from whence the least aid arises to the crown for the protection of its dominions, are invalid, for want of this "consent," and to be abolished: But those which amount to an absolute prohibition, are agreed to. The statute imposing a small duty on foreign sugars and molasses, on their importation, and thereby enabling the colonists to establish new manufactures, and open new sources of foreign trade, shall not be obeyed; but had the parliament instead thereof passed an
act

act totally prohibiting this part of our foreign commerce, under forfeiture of vessel and cargo, it would have met with the approbation and consent of these great and wise men, at least as to its "operations." Is it not strange, that when they were about to bring forth this ruinous principle, they could not perceive, that every greater power includes every inferior, relative power; and that the power to prohibit a particular trade includes, *from necessity*, that of permitting it, *on condition of paying an advantageous duty*?

To conclude my remarks upon this famous American bill of rights, this pillar of American liberties: It seems implicitly agreed, that with the "consent of America," both internal and external taxes may be laid by Parliament;—But they have not informed us in what constitutional, or legal mode, this consent is to be obtained, or given. They must have known, if they knew any thing, that there was none; and yet so far were they from meaning to propose any, that they ordered, in direct violation of their own rules, the only constitutional plan which was offered for that purpose, to be *rescinded* from their minutes, after it had been debated, and referred to further consideration; lest the good people of America should see and approve of it, depriving the member who proposed it, of that security, against misrepresentation, which he was in justice entitled to, and contrary to their duty to the colonies.—Such are the proceedings of the men, intrusted with the sacred rights and liberties of America! Such the disappointment of their constituents.—They thought that all wisdom, justice and policy were

con-

concentred in that learned body. And therefore they expected that some permanent system of union, between Great-Britain and the colonies, upon principles of government and liberty, would have been proposed to the mother state, and a path opened to a lasting and happy reconciliation. But alas ! How mistaken ! Nothing has been the production of their two months labour, but the ill-shapen, diminutive brat, INDEPENDENCY. And conscious of its inability to defend itself, they have exerted every nerve, to prevail on the people to adopt the spurious infant of a day, and take up arms in its defence ; to rush into the blackest rebellion, and all the horrors of an unnatural civil war. To effect this wicked and horrid design, they, in all their *sham* majesty of illegal power, resolve that if “ the late acts of parliament shall be attempted to be carried into execution *by force*, that in such case, *All America* ought to support the inhabitants of the Massachusetts Bay, in *their opposition* ” Who is to superintend the execution of the laws, against which this opposition is advised ? This is the duty of his Majesty, as representative of the state, who is authorised to do it, by first calling on the aid of the civil power, and if that is not sufficient, the military ? The essential principles of government justify it. Search for yourselves, my dear countrymen, look into all the treatises on the common law, and they will tell you, that this opposition is clear, palpable treason and rebellion, which will incur the forfeiture of your estates, and your lives. But this is not all the mischief they have done, or attempted to do,—as if nothing would satisfy

satisfy them, but your inevitable ruin.—They have surrounded you with misery on all sides—have used their utmost endeavours, to raise the hostile resentment of one of the most powerful states upon earth against you, when nothing but her affection, lenity and mercy towards you, can prevent her from reducing you, in a short time, to the deplorable condition of a conquered people. But if she should be so blind to your and her own interest, as to give you independency, which is the great aim of their conduct, they have prepared the rods and scourges of their own tyranny to subdue your spirits, and triumph over your invaluable rights and liberties. Under this tyranny, edicts have been made and published; and so sacred are they to be held, that none is to presume to *meddle* with, or determine any dispute arising on them, but the creatures of this illegal power. The severest of all penalties are ordained for a disobedience to them. Taxes have been imposed on your property, and that property arbitrarily taken from you; the liberty of the press, and even the liberty of speech is destroyed. The unthinking, ignorant multitude, in the east and west, are arming against the mother state, and the authority of government, is silenced by the din of war.—What think you, O my countrymen, what think you will be your condition, when you shall see the designs of these men carried a little farther into execution?—Companies of armed, but undisciplined men, headed by men unprincipled, travelling over your estates, entering your houses—your castles—and sacred repositories of safety for all you hold dear and valuable—seizing your property,

property, and carrying havock and devastation wherever they head—ravishing your wives and daughters, and afterwards plunging the dagger into their tender bosoms, while you are obliged to stand the speechless, the helpless spectators. Tell me, oh! tell me—whether your hearts are so obdurate as to be prepared for such shocking scenes of confusion and death. And yet, believe me, this is a real and not an exaggerated picture of that distress, into which the schemes of those men, who have assumed the characters of your guardians, and dare to stile themselves his *Majesty's most loyal subjects*, will inevitably plunge you, unless you oppose them with all the fortitude which reason and virtue can inspire.

I have thus thought it my duty, in a case of such infinite importance to my country, to give the full weight to the arguments in favour of the right of parliament, and against those rash and violent measures which are hastening the ruin of America. I do not know, that I have exaggerated any. I mean, with the most benevolent attachment to her true interest, to lay the truth, the whole truth; and nothing but the truth, before my country, that she may impartially consider it; and give it that weight which reason and her own preservation shall dictate;—but hitherto I have only performed a part of my engagement. The rights of America remain to be considered and established. A task which the undertaker must perform with ineffable pleasure, as he is pleading a cause founded on the immutable principles of reason and justice—the cause of his country, and the latest posterity. He is endeavouring to restore an union between two

great countries, whose interest and welfare are inseparable; and to recover those rights upon the enjoyment whereof the happiness of millions depend.

That America has rights, and most important rights, which she does not at present enjoy, I know; and that they are as firmly established, as those of the parliament, may be easily proved; but what those rights are—whence derived—how the exercise of them has been lost—and what is the only possible and safe mode of recovering them, are questions, a candid solution of which will throw full light upon this unhappy controversy.

After what has been said respecting the rights of parliament, and the duties of the British state, it cannot be difficult to determine from whence the rights of America are derived. They can be traced to no other fountain, but that wherein they were originally established. This was in the constitution of the British state. Protection from all manner of unjust violence, is the great object which men have in view, when they surrender up their natural rights, and enter into society. I have said before, that the right to this protection, and the duties of allegiance were reciprocal. By protection I do not mean protection from foreign powers only; but also against the private injustice of individuals, the arbitrary and lawless power of the state, and of every subordinate authority. Such being the right, unless the government be so formed, as to afford the subject a security in the enjoyment of it, the right itself would be of little estimation. The tenure would be precarious, and its existence of a short duration.

duration. In proportion to the stability of this security, all governments are more or less free, and the subject happy under them. Much therefore depends on the particular form, or constitution of the society. In a monarchy, where the supreme power is lodged in a single person, without any check or controul, the tenure is precarious; because it depends on the discretion and integrity of the Monarch. But in a free government of the mixt form, where the people have a right to a share, and compose a part of the supreme authority, its foundation will be solid, and its continuance permanent; because the people themselves, who are interested in its preservation, partake of the power which is necessary to defend it.

There is no society in the world where this right of protection is settled with so much wisdom and policy, as in the English constitution. The experience of ages affords numerous instances of its being invaded and impaired, but in a short time restored by its own energetic power. It is this part of the English government upon which authors dwell with rapture; as it constitutes its whole excellence, and forms its freedom.

Power naturally arising from property, it is evident from a view of the British constitution, in all its different stages, that the English government derives its power from the landed interest; that being the most permanent and unchangeable in its nature, of all kinds of property, and therefore most worthy of protection. And although we cannot trace this truth up to its origin, the necessary antient records being buried in the ruins of the monasteries, either before or after the conquest, yet the fact is sufficiently

ciently evident from very ancient histories and documents, as well as from the plan of government, used in England from time immemorial. All historians agree that the present form of government was settled in Britain, by our ancestors, the Anglo-saxons; and so far as we have any knowledge of their government, in their own country, we know that the *propriators of the land*, gave their personal attendance in the *legislative council*, and *shared the power of making the laws*. After their conquest of Britain, *all those to whom the land was apportioned*, held a right to assist in the Saxon parliaments. And by the feudal law *every landholder*, met in the feudal courts, and gave his assent, or dissent, to the laws there proposed.

Such continued to be the form of the British government, until the dissolution of the heptarchy, and union of the seven kingdoms, when, we should not have thought it strange, had this principle been destroyed, or greatly impaired, in the convulsions which effected so great a revolution. But, on the contrary, although the numbers of people, and their remoteness from the place of convention, were greatly increased by the union which rendered a personal exercise of the legislative power impracticable; yet in order to preserve in the government, this important principle, upon which all their rights and freedom depended, they adopted the policy of vesting the landed interest in each tything and borough, with a right to send representatives to their Wittenagemot, or Parliament.

Nor could the rage of conquest, and all the power of arms, abolish this first principle of English

lish liberty and safety. William the first, at the time he conquered Britain, found it consistent with his interest and security, to preserve it inviolate : And when he thought it necessary to lessen the exorbitant power of the Saxon Earls, which endangered his safety, by dismembering the baronies from the counties, the Barons were vested with a right to represent their baronies, in the great national council. This was all the change which that great man ventured to make in the constitution ; a change which made no essential difference, as to its freedom. For as every spot of land was before the conquest within some tything, so under this alteration every part of it was included, in some barony or borough, and all of them were represented in the legislative power, by the Barons, or Burghesses.

Upon this solid foundation continued the freedom of the English government, during the reigns of William Rufus, and Henry the first. In the civil war between Stephen and Maud and Henry the second, each party finding the power and influence of the Barons over their vassals too great, divided the conquered baronies into smaller *tenancies in chief*, and rewarded their friends with them. By this measure, and the like policy, which was afterwards pursued by King John, tenants in capite, or the lesser Barons, were so multiplied, that a very unequal representation of the landed interest arose. They held an equal share in the legislature, with the greater Barons ; and being more numerous, and their interest in many respects different, they over-ruled, and often deprived the greater nobility of their rights. This grievance grew intolerable ; and therefore,
when

when King John found himself obliged to do justice to the nation, and restore the antient principle of the constitution, two several clauses were inserted in Magna Charta: By the first "the Archbishops, Abbots, Earls and *great Barons* of the realm," were to be "summoned *singly*" by the King's writs; and by the second, "all others who held in chief," viz. the lesser Barons, or tenants in capite, were to be "summoned in general." By this clause the lesser barons were separated from the greater, and lost their hereditary right of representing their lands *singly*, or in person; but being summoned to parliament "in general," they held the right of electing some of their body to represent them in the house of commons; and of participating the supreme legislative authority, by their delegates, who were thence forward styled Knights of the shire.

Thus this right to protection from the state, stood secured in every alteration of the constitution, by preserving to the landholders a share in the authority of the supreme head, who were to regulate that protection, and every other matter susceptible of human direction, until the reign of Henry VI. when our ancestors, conceiving that it could not be rendered too secure, nor founded on a base too broad, they obtained, by act of parliament, a right in every freeholder of forty shillings per annum, to vote for knights of the shire.

In confirmation of this right, I shall only add that King John, in the great charter I have before mentioned, granted for the restoration of the rights of the subject, engages "not to im-
"pose

“ pose any taxes without summoning the arch-
 “ bishops, the bishops, the abbots, the earls,
 “ the greater barons, and the *tenants in capite*.”
 And by the 17th of Edward III. another charter, granted on the like occasion, it is expressly declared, that “ *whatever concerns the estate of the*
 “ *realm, and the people*, shall be treated of in parliament by the King, with the consent of the
 “ prelates, earls, barons, and commonalty of the
 “ realm.”

It would be endless to trace this truth through all the pages of the history of the English government. I have offered proofs sufficient to demonstrate that the Lords and Commons, who hold so large a share of the legislative authority, derive their *right from, and represent the lands* within the realm. I shall therefore only add, before I leave this point, That this power of legislation in the people, derived from the share they held in the lands, was originally, and yet is, of the essence of the English government ; and ever was, and still continues to be, the only check upon the encroachments of power, the great security against oppression, and the main support of the freedom and liberty of the English subjects. And its excellence consists in affording, to every part of the realm, an opportunity of representing, by their delegates, at all times, their true circumstances, their wants, their necessities, and their danger, to the supreme authority of the nation, without a knowledge of which it is impossible to form just or adequate laws ; and when represented, to consult, advise and decide upon such provisions, as are proposed for their relief, or safety ; giving their negative to such as are
 mischievous

mischievous or improper, and their assent to those which remove the mischief, or afford a remedy. Here we have a perfect idea of civil liberty, and free government, such as is enjoyed by the subject in Great-Britain.

But what are the circumstances of the American British subjects? Is there a *part or spot of the lands in America*, or are the owners or proprietors thereof *in right of such lands*, represented in the British parliament; or do they in any other manner partake of the supreme power of the state? In this situation of the colonies, is not the British government as absolute and despotic over them, as any Monarch whatever, who singly holds the legislative authority? Are not the persons, lives and estates of the subjects in America at the disposal of an absolute power, without the least security for the enjoyment of their rights? Most certain it is, that this is a situation which people accustomed to liberty cannot sit easy under.

From the preceeding remarks it partly appears in what manner the American subjects have lost the enjoyment of this inestimable right, though not the right itself, viz. by their emigration to a part of the territory of the state, for which the constitution had not provided a representation. America not being known or thought of when the constitution was formed, no such provision was then made. But the right to a share in the supreme authority was confined to the territory at that time, intended to be governed by it. And at the time our ancestors left the mother country, it seems none was established. How this happened is not material to my subject

ject—they came over, perhaps, without thinking of the importance of the right;—or their poverty, which rendered the obtaining of it in any form impracticable, prevented their claim of it. However, it is certain that it was passed over in silence, as well by the state, as the people who emigrated; but has been neither forfeited, surrendered, nor lost. And therefore it ought to be restored to them, in such manner as their circumstances will admit of, whenever it shall be decently and respectfully asked for. Justice to the Americans, and sound policy, in respect to both countries, manifestly require it.

The emigrants enjoyed in Britain the perfect rights of English subjects. They left their native country with the consent of the state, to increase her commerce, to add to her wealth, and extend her dominions. All this they have effected with infinite labour and expence, and through innumerable difficulties and dangers. In the infant-state of their societies, they were incapable of exercising this right of participating the legislative authority in any mode. The power of parliament was justifiable from necessity at that time over them; they stood in as much need of its protection, as children in an infant-state require the aid and protection of a parent, to save them from a foreign enemy, as well as from those injuries which might arise from their own indiscretions. But now they are arrived at a degree of opulence, and circumstances so respectable, as not only to be capable of enjoying this right, but from necessity, and for the security of both countries to require it.

The subjects of a free state, in every part of its dominions ought, in good policy, to enjoy the same fundamental rights and privileges. Every distinction between them must be offensive and odious, and cannot fail to create uneasiness and jealousies, which will ever weaken the government, and frequently terminate in insurrections; which, in every society, ought to be particularly guarded against. If the British state therefore means to retain the colonies in a due obedience on her government, it will be wisdom in her to restore to her American subjects, the enjoyment of the right of assenting to, and dissenting from, such bills as shall be proposed to regulate their conduct. Laws thus made will ever be obeyed; because by their assent, they become their own acts.—It will place them in the same condition with their brethren in Britain, and remove all cause of complaint; or, if they should conceive any regulations inconvenient, or unjust, they will petition, not rebel. Without this it is easy to perceive that the union and harmony, which is peculiarly essential to a free society, whose members are resident in regions so very remote from each other, cannot long subsist.

The genius, temper, and circumstances of the Americans should be also duly attended to. No people in the world have higher notions of liberty. It would be impossible ever to eradicate them: should an attempt so unjust be ever made: Their late spirit and conduct fully prove this assertion, and will serve as a clue to that policy by which they ought to be governed. The distance of America from Britain, her vast extent of territory

ritory, her numerous ports and conveniencies of commerce, her various productions, her increasing numbers, and consequently her growing strength and power, when duly considered—all point out the policy of uniting the two countries together, upon principles of English liberty. Should this be omitted, the colonies will infallibly throw off their connexion with the mother country.—Their distance will encourage the attempt, their discontent will give them spirit, and their numbers wealth and power, at some future day, will enable them to effect it.

If it be the interest of the mother country, to be united with the colonies, it is still more Their interest that the union should take place. Their future safety and happiness depend on it. A little attention to their circumstances will prove it. Each colony, in the present constitution, is capable, by its own internal legislature, to regulate its own internal police, within its particular circle of territory. But here it is confined; thus far, and no farther, can its authority extend,—one cannot travel into the bounds of the other, and there make, or execute, its regulations. They are, therefore, in respect to each other, so many perfect and independent societies, destitute of any political connection, or supreme authority, to compel them to act in concert for the common safety. They are different in their forms of government,—productions of soil, and views of commerce.—They have different religions, tempers, and private interests.—They, of course, entertain high prejudices against, and jealousies of, each other; all which must from the nature and reason of things always conspire to create such

such a diversity of interests, inclinations, judgments, and conduct, that it will ever be impossible for them to unite in any general measure whatever, either to avoid any general mischief, or to promote any general good. A retrospect to the conduct of the colonies, during the last war, will shew that this assertion is founded in fatal experience. It was owing to this disunited state of the colonies, and their conducting their policy upon these principles, that a small number of French subjects in Canada, acting on the reverse, were enabled to concert their plans with such superior wisdom, and to exert such a superior degree of strength, as to endanger the safety of all North America, which contained upwards of two millions of people, and obliged them to implore the assistance of the British government. In the application to the mother country for protection, this is fully acknowledged. "It now evidently appears," say the council and assembly of the Massachusetts Bay, "That the French are advanced in the execution of a plan, projected more than fifty years since, for extending their possessions from the mouth of the Mississippi on the south, to Hudson's Bay on the north, for securing the vast body of Indians in that inland country, and for subjecting *this whole continent to the crown of France.*"* And from what cause did it happen that the English colonies, possessed of an hundred fold more wealth, and twenty times the number of people, could not oppose, with success, the force and schemes of a few? The same

* Message from the Council and House of Representatives of the Massachusetts Bay, in 1754.

~~some~~ gentlemen tell us, The French have but *one interest*, and keep but *one point* in view : The *English governments have different interests, are dis-united : some of them have their frontiers covered by their neighbours, and not being immediately affected seem unconcerned.*" The commissioners from the several colonies at Albany, assign the same cause.

" The colonies," they inform the crown, being " in a divided, disunited state, there has never " been *any joint exertion of their force, or councils,* " to repel or defeat the measures of the French;" and " particular colonies are *unable and unwilling* " *ling* to maintain the cause of the whole." " That it seems *absolutely necessary*, that speedy " and effectual measures be taken *to secure the* " *colonies from the slavery they are threatened with.*"

The prediction contained in these declarations turned out strictly true. As it was most just that the colonies should contribute towards their own protection, while the mother country was lavishing millions in their defence ; requisitions were annually made of them. But what was the conduct of the colonies in this scene, so very interesting to them ? It is enough for me here to assert, what was known to all at the time, and what there still remains abundant documents to prove—That altho' some of the colonies, which were in immediate danger, complied chearfully and in time ; yet others, from various causes, complied too late to be of real service ; and some gave nothing towards the general defence, even at times when the enemy was within their borders, and a considerable part of the colony was evacuated. What must have been the direful consequences of those omissions of duty in the colonies.

lonies towards each other, had not the mother-country exerted her military abilities to save them? The danger, and all the horrors of French slavery, and popish superstition, which then threw us, at times, into the greatest despondency, are past, and we have forgot them! But let us not deceive ourselves; the same causes will ever produce the same effects.—The ambition of France is still alive and active, her power indeed is asleep, but only to wake at some future day. America is daily growing a more alluring object of her ambition. Her fleets, and those of her natural ally, the King of Spain, are encreasing. The practice of conquering and dividing territories and kingdoms, is become fashionable in Europe. Under this prospect of things, what can America expect, while she denies the authority of the mother-state; and by that denial incurs a forfeiture of her protection, and refuses to be united with her upon such principles as will entitle her to it. She must in all probability soon become the slave of arbitrary power,—of Popish bigotry and superstition.

But the miseries of a foreign yoke are not all the mischiefs which may attend her scheme of independence. Disputes will ever arise among the colonies. The seeds of controversy, respecting their several interests and boundaries, are already sown, and in full vegetation. Ambition and avarice are ever ready to exert their influence, whenever opportunity offers. America has many men of abilities and intrigue, who will at all times be ready to rise on the misfortunes and calamities of others. Disputes between Pennsylvania and Maryland began, and would
have

have ended in a civil war, had not the authority of the state interposed. Similar disputes have subsisted between New-York and Connecticut; New-York and New-Jersey, and still subsist between New-York and New-Hampshire, Connecticut and Pennsylvania, and Pennsylvania and Virginia; all arising from the uncertainty of their boundaries, and right to the soil. In 1606 King James granted two charters, one to the Plymouth company, and the other to Sir Thomas Gates, and others; *including all the colonies*. The resumption of the first of these charters has been publicly avowed and attempted; and we have great reason to believe, that of the other is in contemplation. These, with many other causes, will afford plentiful sources of dispute between the several colonies; which can only be decided by the sword, there being no other power to appeal to. The northern colonies, inured to military discipline and hardships, will, in all probability, be the first to enter the list of military controversy; and, like the northern Saxons and Danes, carry devastation and havock over the southern; who, weak for want of discipline, and having a dangerous enemy within their own bowels, must, after suffering all the horrors of a civil war, yield to the superior force, and submit to the will of the conquerors.

We have now before us, all that we are to gain by this frantic attempt, to separate the colonies from Great-Britain. Should America fail in her military opposition, which she must infallibly do, they immediately become a conquered people, subject to such laws as the conquerors shall think proper to impose:—All our
rights

rights and privileges forfeited,—our loyalty justly distrusted—our ports secured by men of war,—our capital cities burthened with British troops,—and our wealth exhausted for their support. On the other contrary, should we by any miraculous event succeed in this mad design, we must soon either become a prey to a foreign power; our laws, our manners and customs, our rights both civil and religious, and our inestimable religion itself, will be changed for the arbitrary customs, the slavery and bloody superstition of Rome: Or should we by any unforeseen accident, escape this deplorable situation, another awaits us, almost as shocking and distressing. Ambition and avarice will soon furnish the fuel, and blow up the flame of civil discord among ourselves. Some of these calamities must inevitably be the blessed consequences of this unnatural scheme.

It will now be asked, what then is to be done? Must we submit to parliamentary regulations, when we are not represented in that body? My answer is—That I am a friend to true liberty. I esteem it above all other temporal blessings, and *because* I esteem it, I disapprove of the independent measures of the congress; which, instead of tending to secure, or obtain it, lead to the destruction of *all liberty*, and the *most dangerous tyranny*. I do not differ from them in opinion, that America has grievances to complain of; but I differ from them in the mode of *obtaining redress*. I ever was convinced that Great-Britain was not so despicable in her power as to be hectoring out of her rights by her subjects; or that she was so ignorant of the condition of the colonies,

nies, as to believe our pretensions to independency could be maintained. I foresaw what has now come to pass, that we must either submit to parliamentary authority,—or to be a conquered people,—or seek for redress in an union with the mother state. And my duty as a subject, my own interest, and the safety and happiness of my country, ever prevailed on me to prefer the last. Had this measure been adopted in the year 1766, in all probability, the rights of America would have been restored, and the most perfect harmony would have this day subsisted between the two countries: But unfortunately for America, such ground was at that time taken, as rendered it inconsistent with the honour and dignity of parliament to meet us.

Great pains have been taken by the American demagogues, to delude the unhappy people, whom they have doomed to be the dupes of their ambition, into a belief that no justice was to be obtained of his Majesty, and his houses of parliament; and that they had refused to hear our most reasonable petitions. Hence we have seen the best of Sovereigns treated with the grossest abuse and insult, the affections of his people alienated, and many of his faithful subjects, desponding of relief, taking up arms against his authority. It is high time that this fatal delusion should be exposed, and the good people of America disabused. It is true, that his Majesty and the two houses of parliament have treated petitions from the colonies with neglect; but what were those petitions? Did they rest on a denial of the essential rights of Parliament, or did they ask for the rights of the subject in America? A

retrospect of all the petitions, ever presented to the throne on this subject, will shew that they conveyed to the royal ear, nothing but the language of independence. They disowned the power of the supreme legislature, to which, as subjects, they owe obedience, and denied a capacity in the colonies to be represented—and upon this ground they insisted on a repeal of the laws. Here they ended.—*No prayer, nor the least intimation of a desire to be united with Britain upon a just restoration of their rights!* Such were the petitions of the colonies, which were treated with neglect by the supreme power of the nation. And the reasonable and sensible man will now, on reflection, determine, whether it becomes us to resent a conduct of this kind, in our superiors, or rather to look back, with astonishment at our folly, in permitting ourselves to be led by designing men, into such acts of disrespect and insult. Let us bring the case home to ourselves. The relation between the sovereign authority and its members, bears a true resemblance to that between parent and child. Their rights and duties are similar. Should a child take umbrage at the conduct of a parent, tell him that he was not his father, nor would he consider himself, or act, as his child *on any terms*; ought the parent to listen to such undutiful language, or could he be justly censured for treating it with neglect, or even with contempt?

In order to prevail on the congress to desert their scheme of independence, and to pursue those measures for restoring the rights of America, which carried with them a prospect of success, a member of the congress, as I mentioned before, proposed a plan.

plan of union between the two countries, which would have restored to the colonists the full enjoyment of their rights. I have often conversed with him on the subject, and well understand his principles, and what passed on the occasion. He waited with patience to see whether any rational scheme of union would be adopted by the congress,—determined to unite with them in any measure which might tend to a reconciliation between the two countries; but he waited in vain: And when he found them bewildered, perpetually changing their ground, taking up principles one day, and shifting them the next, he thought it his duty, however little the prospect of success, to speak his sentiments with firmness, and to endeavour to show them the true line of their duty. After proving the necessity of a supreme authority over every member of the state, tracing the rights of the colonies to their origin, and fixing them on the most solid principles; and thence shewing the necessity of an union with the mother state, for the recovery of them; he introduced the plan with the resolve which precedes it. But before he delivered it to be read, he declared, that he was sensible it was not perfect; that knowing the fundamental principles of every system must be first settled, he had, to avoid perplexity, contented himself with only laying down the great out-lines of the union; and should they be approved of, that he had several propositions of lesser consequence to make, in order to render the system more complete. The plan read, and warmly seconded by several gentlemen of the first abilities, after a long debate, was so far approved as to be thought

worthy of further consideration, and referred under a rule for that purpose, by a majority of the colonies. Under this promising aspect of things, and an expectation that the rule would have been regarded, or at least that something rational would take place to reconcile our unhappy differences, the member proposing it was weakly led to sign the non-importation agreement, although he had uniformly opposed it; but in this he was disappointed.—The measures of *independence and sedition*, were soon after preferred to those of *harmony and liberty*; and no arguments, however reasonable and just, could prevail on a majority of the colonies to desert them. The resolve, plan, and rule referring them to further consideration, so inconsistent with the measures now resolved on, were expunged from the minutes; with what view let America determine: And while the enemies to the gentleman who proposed them, are abusing him for offering and publishing to the world the most infamous falsehood, in representing it as ministerial, and sent over to him by Lord N—h; they have copies of it in their pockets, industriously concealing it from the world. With what view can this be, but that their malevolent aspersions may take the greater effect? In justice therefore to the character of this gentleman, and that America may see and judge for itself, they are here offered to its consideration.

RESOLVED,

RESOLVED,

That the Congress will apply to his Majesty for a redress of grievances under which his faithful subjects in America labour; and assure him, that the Colonies hold in abhorrence the idea of being considered independent communities on the British government, and most ardently desire the establishment of a Political Union, not only among themselves, but with the Mother State, upon those principles of safety and freedom which are essential in the constitution of all free governments, and particularly that of the British Legislature; and as the Colonies from their local circumstances, cannot be represented in the Parliament of Great-Britain, they will humbly propose to his Majesty and his two Houses of Parliament, the following plan, under which the strength of the whole Empire may be drawn together on any emergency, the interest of both countries advanced, and the rights and liberties of America secured.

▲ Plan of a proposed Union between Great-Britain and the Colonies.

THAT a British and American legislature, for regulating the administration of the general affairs of America, be proposed and established in America, including all the said colonies; within, and under which government, each colony shall retain its present constitution, and powers of regulating and governing its own internal police, in all cases whatever.

That the said government be administered by a President General, to be appointed by the King, and a grand Council, to be chosen by the Representatives of the people of the several colonies, in their respective Assemblies, once in every three years.

That the several Assemblies shall choose members for the grand Council in the following proportions, viz.

New-Hampshire,	Delaware Counties,
Massachusetts-Bay,	Maryland,
Rhode-Island,	Virginia,
Connecticut,	North-Carolina,
New-York,	South-Carolina,
New-Jersey,	and
Pennsylvania,	Georgia.

Who

Who shall meet at the city of . . . for the first time, being called by the President-General, as soon as conveniently may be after his appointment.

That there shall be a new election of members for the Grand Council every three years; and on the death, removal or resignation of any member, his place shall be supplied by a new choice, at the next sitting of Assembly of the Colony he represented.

That the Grand Council shall meet once in every year, if they shall think it necessary, and oftner, if occasions shall require, at such time and place as they shall adjourn to, at the last preceding meeting, or as they shall be called to meet at, by the President-General, on any emergency.

That the grand Council shall have power to choose their Speaker, and shall hold and exercise all the like rights, liberties and privileges, as are held and exercised by and in the House of Commons of Great-Britain.

That the President-General shall hold his Office during the pleasure of the King, and his assent shall be requisite to all acts of the Grand Council, and it shall be his office and duty to cause them to be carried into execution.

That the President-General, by and with the advice and consent of the Grand-Council, hold and exercise all the legislative rights, powers, and authorities, necessary for regulating and administering all the general police and affairs of the colonies, in which Great-Britain and the colonies, or any of them, the colonies in general, or more than one colony, are in any manner concerned, as well civil and criminal as commercial.

That the said President-General and Grand Council, be an inferior and distinct branch of the British legislature, united and incorporated with it, for the aforesaid general purposes; and that any of the said general regulations may originate and be formed and digested, either in the Parliament of Great-Britain, or in the said Grand Council, and being prepared, transmitted to the other for their approbation or dissent; and that the assent of both shall be requisite to the validity of all such general acts or statutes.

That in time of war, all bills for granting aids to the crown, prepared by the Grand Council, and approved by the President General, shall be valid and passed into a law, without the assent of the British Parliament.

I shall

I shall not affirm that this plan is formed upon the most perfect principles of policy and government; but as it is an universally prevailing opinion, that the colonies cannot be represented in parliament: I know of none other which comes so near to them; and it is most evident, upon a due consideration of it, that the rights of America would have been fully restored, and her freedom effectually secured by it. For under it, no law can be binding on America, to which the people, by their representatives, have not previously given their consent: This is the essence of liberty, and what more would her people desire?

The author of this plan seems to have formed it on a comprehensive view, of the regulations necessary to the interest and safety of the colonies. These he has divided into two classes: the first contain all such as the colony legislatures have a right to make, under the several constitutions, and to which they are adequate; these to remain under their decisions; it being declared in the plan, that "each colony shall retain its present constitution and powers of regulating and governing its own internal police in all cases whatever." The others, which are to be the objects of the deliberations and decisions of the grand council, relate to the general interests and security of the colonies, and are absolutely necessary for those purposes; such laws for granting aids to the crown, and levying taxes in just and reasonable proportions in the colonies—for regulating a general paper currency, and the value of foreign coins, which ought in all good policy, to be established on funds equally

equally solid, and ascertained at the same value; Laws for regulating and quartering troops, which may be necessary for their general protection; for settling disputes between the colonies, respecting their boundaries,—with a variety of other matters that must naturally arise from the jarring interests of the colonies, which will continually encrease with the encrease of their wealth and commerce. And as to those, it must be owned, that the colony legislatures are not adequate; but that they must be made either by the parliament, or by some new establishment for those purposes. The authority of the first was objected to; and as to the second, or any other system of union, it being incompatible with the scheme of independence, it was not thought worthy of attention.

Objections were indeed made to this plan, which it may not be improper here to mention. It was said, “that the delegates did not come with authority to consent to a political union between the two countries.” To which many arguments were opposed, to show that they had such authority or none; and concluded with desiring, that if that was, in the opinion of the members, the case, yet that the congress ought in justice to their country to digest and form one, and recommend it to their respective assemblies; by whom it would be presented with more constitutional propriety than by any other body of men. It was further said, “that the members of the grand council would be corrupted, and betray the interest of the colonies.” To this it was answered—That, if American virtue was not firm enough to maintain American liberty,

berty, it could be supported by no wisdom or policy whatever; but suppose the people to be in so corrupt a state;—yet as the election of the members was to be triennial, they might change them every 3 years, and the sums of money, necessary to bribe the new members, would be too great to be supplied: That the most sensible writers on the side of liberty agreed, if the parliament of England was triennial, it would destroy the system of corruption. Besides, to avoid all risque of the contrary, they might, by altering one word in the plan, make the election duennial, or annual, which must certainly remove the objection. A third objection was, That it deprived the colony legislatures of a part of their rights; To which it was replied, that a colony legislature is capable of passing laws to regulate its internal police; but not adequate to any general regulation, not even in the necessary one of taxation. That there is no proposition more just, than that every colony, as a member of the state, ought to be obliged to contribute towards the defence of the whole, in proportion to the property and wealth which each colony possesses. That this is a primary consideration in every society; and that no one colony had a constitutional power to obtain the amount and value of the property of the others, by which to ascertain its proportion. Nor was there any authority whatever, save the British Parliament, to compel refractory colonies to do their reasonable duty, in this or any other general measure; and that this plan was so far from diminishing the rights of any colony legislature, that it extended them; by giving to each a new jurisdiction.

tion, to decide upon regulations which relate to the general police of all the colonies.

Such was the plan laid before the congress, the objections against, and the arguments in favour of it. They are here laid before the public, to enable them to judge for themselves, whether, as a representation in parliament, is generally supposed to be impracticable, any thing more consistent with their safety could have been adopted.

Had this unhappy controversy been of the first impression in the English government, I should not be surprised to find the advocates of America so much at a loss for principles upon which to ask for, and obtain her rights. I confess I know not whether to attribute their strange conduct to a total ignorance of the merits, or to a design from the beginning to throw off all political connections with the British government. However this may be, precedents are not wanting upon which to reason, and to form a remedy. The principality of Wales, the Bishoprick of Durham, and the Palatinate of Chester, laboured under the like grievances; being bound by the laws of parliament for many years, without holding a share in the supreme authority. Great discontent arose from the slavish distinction between the subjects of the same state. The oppressed thought it their duty, as members of the state, to petition the parliament for a share in their authority. And such was the equity and justice of their claims, that they became thereupon vested with this important privilege. When Henry III. conquered Calais, and settled it with English merchants, with intent to extend his dominions, and encrease the commerce of the nation;

nation; and it was held so incompatible with English liberty, that the authority of parliament should extend to members who did not partake of it, that they were incorporated with the English government, and shared in its legislature.

What then is to be done? Is it too late to recover from our madness, and to pursue the dictates of reason and duty? By no means. But it is high time we had changed our measures, and retreated from the dangers with which we are threatened. Let us, like men who love order and government, boldly oppose the illegal edicts of the congress, before it is too late,—pull down—the licentious tyranny they have established dissolve their inferior committees, their instruments to trample on the sacred laws of your country, and your invaluable rights. This done, and peace and order restored within your several provinces; apply to your assemblies, who are your constitutional guardians, and can alone procure a redress of your grievances. Intreat them in a respectful and dutiful manner, to petition his Majesty and his two houses of parliament—and in their petitions to assure them, “That you are
 “sensible of the necessity of a supreme legisla-
 “ture over every member of the state; that you
 “acknowledge yourselves subjects of the British
 “government; that you have, through innumerable difficulties and perils, settled and improved a wilderness, extended the territories,
 “and greatly increased the wealth and power of the nation: That by such settlement you
 “have lost the enjoyment of, though not the
 “right to, some of the first and most excellent
 “of the privileges of Englishmen: That the
 “English

“ English government is founded on freedom :
 “ That this freedom depends on its particular
 “ constitution, in which it is and ever was es-
 “ sential, that the landed interest, or the free-
 “ holders of every part of its territory, should
 “ participate in the supreme legislative authority,
 “ having right to regulate their conduct, and
 “ a power over their lives, liberties and proper-
 “ ties. That this privilege alone distinguishes
 “ British subjects from the slaves of the most des-
 “ potic governments : That no *part of the lands*
 “ *in America*, nor the *proportion thereof in right*
 “ *of such lands*, enjoy their antient right of par-
 “ ticipating in the authority of parliament. And
 “ yet that laws have been made, by that autho-
 “ rity, for levying taxes upon your property,
 “ for restraining and prohibiting your trade and
 “ commerce, for suppressing your manufactures,
 “ for regulating your internal police, and de-
 “ priving you of many other rights, to which
 “ you are entitled as English subjects. That
 “ by such regulations you have been aggrieved
 “ and oppressed, and great discontent has arisen
 “ in the breasts of his Majesty’s faithful Ame-
 “ rican subjects, to the destruction of that har-
 “ mony which ought to subsist between mem-
 “ bers of the same community, and great pre-
 “ judice of the common wealth. That it is not
 “ for want of inclination, but capacity, arising
 “ from the disunited state of the colonies, that
 “ you have not discharged, with justice among
 “ yourselves, those duties which appertain to
 “ members of the state : And therefore pray :
 “ that you may not only be restored to this
 “ capacity, but to all the rights of Englishmen,
 “ upon

“ upon such principles of liberty and policy, as
 “ shall best suit your local circumstances.”

A petition of this kind, so reasonable and just, and so well founded and established on the principles of their own government, attended with such a plan of union as may be wisely digested by your several assemblies, there is no room to doubt, will be graciously received, and duly attended to by his Majesty and his two houses of parliament, and finally terminate in a full redress of your grievances, and a permanent system of union, and harmony, upon principles of liberty and safety. But let me entreat you, not to trust these petitions to your agents alone; but follow the wise examples of the Grecian and Roman colonists,—send over with them one or more delegates, to remove the present prejudices, to create friends, and to solicit your cause. The expence will be trifling, their utility may be great,—the importance of your rights is infinite.

Thus I have, my dear countrymen, with the utmost candour and freedom, and the most benevolent regard for your true interest and happiness, laid before you the constitutional extent of parliamentary jurisdiction, and *deduced* your rights from the most solid foundation, and explained your duties. I have pointed out the mode which I am convinced, you ought to pursue for a restoration of those rights. I have showed you the folly of the scheme now in agitation for that purpose. My most sincere wish is, that you may avail yourselves of the information, and retreat from the danger and distress which threatens you, before it is too late. Permit me, before I conclude, to ask you a few serious

rious questions. Do you mean to forfeit, by your rash and imprudent conduct, your right to the protection of the British state, and cut yourselves and your posterity off for ever from all the privileges of Englishmen? To relinquish your trade up the Mediterranean, in the British seas, and all the British ports? and suffer the produce of your soil, and the effects of your labour and industry to perish on your hands, for want of a market to dispose of them? Do you mean to desert all your present blessings, & retreat from superior force into a wilderness inhabited by wild beasts and savages, destitute of the necessities of life, and incapable of obtaining them? Or do you mean to submit to the deplorable condition of a conquered people, subject to the oppression and tyranny of a military government, with British fleets directing that pittance of trade, which the conqueror may allow you to enjoy; and with British forces in all your capital cities, commanding your allegiance to the British state?

Do you wish to exchange the mild and equal rule of English customs and manners, and your inestimable religion, for the tyranny of a foreign yoke, and the bloody superstitions of popery? Or if you design to give up your present enjoyment of all the blessings of life, for the horrors and distress of a civil war, and the fatal consequences which must infallibly attend yourselves, and your latest posterity? Are you *still* resolved to surrender up your reason to the miserable sophistry and gargon of designing men, and to hazard all these direful misfortunes, rather than be united with your brethren and fellow subjects in Britain? If such be your dreadful resolutions, I, who have all that I hold dear and valuable among you, must content myself with sharing along with you the calamitous consequences of your frenzy, and the miserable fate of an American; with this only consolation, that I have honestly discharged my duty in warning you of your dangers, and endeavoured to pilot you into the haven of security and happiness.

F I N I S.



