

Rights of the Colonists

The Committee appointed by the Town the second Instant “to State the Rights of the Colonists and of this Province [Volume 5, Page 395] in particular, as Men, as Christians, and as Subjects; to communicate and publish the same to the several Towns in this Province and to the World as the sense of this Town with the Infringements and Violations thereof that have been, or from Time to Time may be made. Also requesting of each Town a free Communication of their Sentiments Reported—

First, a State of the Rights of the Colonists and of this Province in particular—

Secondly, A List of the Infringements, and Violations of those Rights.—

Thirdly, A Letter of Correspondence with the other Towns.—

1st. Natural Rights of the Colonists as Men.—

Among the Natural Rights of the Colonists are these First. a Right to Life; Secondly to Liberty; thirdly to Property; together with the Right to support and defend them in the best manner they can—Those are evident Branches of, rather than deductions from the Duty of Self Preservation, commonly called the first Law of Nature—

All Men have a Right to remain in a State of Nature as long as they please: And in case of intollerable Oppression, Civil or Religious, to leave the Society they belong to, and enter into another.—When Men enter into Society, it is by voluntary consent; and they have a right to demand and insist upon the performance of such conditions, And previous limitations as form an equitable original compact.—

Every natural Right not expressly given up or from the nature of a Social Compact necessarily ceded remains.—

All positive and civil laws, should conform as far as possible, to the Law of natural reason and equity.—

As neither reason requires, nor religion permits the contrary, every Man living in or out of a state of civil society, has a right peaceably and quietly to worship God according to the dictates of his conscience.—

“Just and true liberty, equal and impartial liberty” in matters spiritual and temporal, is a thing that all Men are clearly entitled to, by the eternal and immutable laws Of God and nature, as well as by the law of Nations, & all well grounded municipal laws, which must have their foundation in the former.—

In regard to Religion, mutual tolleration in the different professions thereof, is what all good and candid

minds in all ages have ever practiced; and both by precept and example inculcated on mankind: And it is now generally agreed among christians that this spirit of toleration in the fullest extent consistent with the being of civil society “is the chief characteristical mark of the true church”¹ & In so much that Mr. Lock has asserted, and proved beyond the possibility of contradiction on any solid ground, that such toleration ought to be extended to all whose doctrines are not subversive of society. The only Sects which he thinks ought to be, and which by all wise laws are excluded from such toleration, are those who teach Doctrines subversive of the Civil Government under which they live. The Roman Catholicks or Papists are excluded by reason of such Doctrines as these “that Princes excommunicated may be deposed, and those they call Hereticks may be destroyed without mercy; besides their recognizing the Pope in so absolute a manner, in subversion of Government, by introducing as far as possible into the states, under whose protection they enjoy life, liberty and property, that solecism in politicks, Imperium in imperio² leading directly to the worst anarchy and confusion, civil discord, war and blood shed—

The natural liberty of Men by entering into society is abridg'd or restrained so far only as is necessary for the Great end of Society the best good of the whole—

In the state of nature, every man is under God, Judge and sole Judge, of his own rights and the injuries done him: By entering into society, he agrees to an Arbiter or indifferent Judge between him and his neighbours; but he no more renounces his original right, than by taking a cause out of the ordinary course of law, and leaving the decision to Referees or indifferent Arbitrations. In the last case he must pay the Referees for time and trouble; he should be also willing to pay his Just quota for the support of government, the law and constitution; the end of which is to furnish indifferent and impartial Judges in all cases that may happen, whether civil ecclesiastical, marine or military.—

“The natural liberty of man is to be free from any superior power on earth, and not to be under the will or legislative authority of man; but only to have the law of nature for his rule.”—

In the state of nature men may as the Patriarchs did, employ hired servants for the defence of their lives, liberty and property: and they should pay them reasonable wages. Government was instituted for the purposes of common defence; and those who hold the reins of government have an equitable natural right to an honourable support from the same principle “that the labourer is worthy of his hire” but then the same community which they serve, ought to be assessors of their pay: Governors have no right to seek what they please; by this, instead of being content with the station assigned them, that of honourable servants of the society, they would soon become Absolute masters, Despots, and Tyrants. Hence as a private man has a right to say, what wages he will give in his private affairs, so has a Community to determine what they will give and grant of their Substance, for the Administration of publick affairs. And in both cases more are ready generally to offer their Service at the proposed and stipulated price, than are able and willing to perform their duty.—

In short it is the greatest absurdity to suppose it in the power of one or any number of men at the entering into society, to renounce their essential natural rights, or the means of preserving those rights when the great end of civil government from the very nature of its institution is for the support, protection and defence of those very rights: the principal of which as is before observed, are life liberty and property.

If men through fear, fraud or mistake, should in terms renounce and give up any essential natural right, the eternal law of reason and the great end of society, would absolutely vacate such renunciation; the [Volume 5, Page 396] right to freedom being the gift of God Almighty, it is not in the power of Man to alienate this gift, and voluntarily become a slave—

2d. The Rights of the Colonists as Christians—

These may be best understood by reading—and carefully studying the institutes of the great Lawgiver and head of the Christian Church: which are to be found clearly written and promulgated in the New Testament—

By the Act of the British Parliament commonly called the Toleration Act, every subject in England Except Papists &c was restored to, and re-established in, his natural right to worship God according to the dictates of his own conscience. And by the Charter of this Province it is granted ordained and established (that it is declared as an original right) that there shall be liberty of conscience allowed in the worship of God, to all christians except Papists, inhabiting or which shall inhabit or be resident within said Province or Territory.³ Magna Charta itself is in substance but a constrained Declaration, or proclamation, and promulgation in the name of King, Lord, and Commons of the sense the latter had of their original inherent, indefeazible natural Rights,⁴ as also those of free Citizens equally perdurable with the other. That great author that great jurist, and even that Court writer Mr. Justice Blackstone holds that this recognition was justly obtained of King John sword in hand: and peradventure it must be one day sword in hand again rescued and preserved from total destruction and oblivion.—

3d. The Rights of the Colonists as Subjects

A Common Wealth or state is a body politick or civil society of men, united together to promote their mutual safety and prosperity, by means of their union.⁵

The absolute Rights of Englishmen, and all freemen in or out of Civil society, are principally, personal security personal liberty and private property.

All Persons born in the British American Colonies are by the laws of God and nature, and by the Common law of England, exclusive of all charters from the Crown, well Entitled, and by the Acts of the British Parliament are declared to be entitled to all the natural essential, inherent & inseperable Rights Liberties and Privileges of Subjects born in Great Britain, or within the Realm. Among those Rights are the following; which no men or body of men, consistently with their own rights as men and citizens or members of society, can for themselves give up, or take away from others

First, “The first fundamental positive law of all Commonwealths or States, is the establishing the legislative power; as the first fundamental natural law also, which is to govern even the legislative power itself, is the preservation of the Society.”⁶

Secondly, The Legislative has no right to absolute arbitrary power over the lives and fortunes of the people: Nor can mortals assume a prerogative, not only too high for men, but for Angels; and therefore

reserved for the exercise of the Deity alone.—

“The Legislative cannot Justly assume to itself a power to rule by extempore arbitrary decrees; but it is bound to see that Justice is dispensed, and that the rights of the subjects be decided, by promulgated, standing and known laws, and authorized independent Judges;” that is independent as far as possible of Prince or People. “There shall be one rule of Justice for rich and poor; for the favorite in Court, and the Countryman at the Plough.”⁷

Thirdly, The supreme power cannot Justly take from any man, any part of his property without his consent, in person or by his Representative.—

These are some of the first principles of natural law & Justice, and the great Barriers of all free states, and of the British Constitution in particular. It is utterly irreconcilable to these principles, and to many other fundamental maxims of the common law, common sense and reason, that a British house of commons, should have a right, at pleasure, to give and grant the property of the Colonists. That these Colonists are well entitled to all the essential rights, liberties and privileges of men and freemen, born in Britain, is manifest, not only from the Colony charter, in general, but acts of the British Parliament. The statute of the 13th of George 2. c. 7. naturalizes even foreigners after seven years residence. The words of the Massachusetts Charter are these, “And further our will and pleasure is, and we do hereby for us, our heirs and successors, grant establish and ordain, that all and every of the subjects of us, our heirs and successors, which shall go to and inhabit within our said province or territory and every of their children which shall happen to be born there, or on the seas in going thither, or returning from thence shall have and enjoy, all liberties and immunities of free and natural subjects within any of the dominions of us, our heirs and successors, to all intents constructions & purposes whatsoever as if they and every of them were born within this our Realm of England.” Now what liberty can there be, where property is taken away without consent? Can it be said with any colour of truth and Justice, that this Continent of three thousand miles in length, and a breadth as yet unexplored, in which however, its supposed, there are five millions of people, has the least voice, vote or influence in the decisions of the British Parliament? Have they, all together, any more right or power to return a single member to that house of commons, who have not inadvertently, but deliberately assumed a power to dispose of their lives,⁸ Liberties and properties, than to choose an Emperor of China! Had the Colonists a right to return members to the british parliament, it would only be hurtfull; as from their local situation and circumstances it is impossible they should be ever truly and properly represented there. The inhabitants of this country in all probability in a few years will be more numerous, than those of Great Britain and Ireland together; yet it is absurdly expected [Volume 5, Page 397] by the promoters of the present measures, that these, with their posterity to all generations, should be easy while their property, shall be disposed of by a house of commons at three thousand miles distant from them; and who cannot be supposed to have the least care or concern for their real interest: Who have not only no natural care for their interest, but must be in effect bribed against it; as every burden they lay on the colonists is so much saved or gained to themselves. Hitherto many of the Colonists have been free from Quit Rents; but if the breath of a british house of commons can originate an act for taking away all our money, our lands will go next or be subject to rack rents from haughty and relentless landlords who will ride at ease, while we are trodden in the dirt. The Colonists have been branded with the odious names of traitors and rebels,

only for complaining of their grievances; How long such treatment will, or ought to be born is submitted.

Th. Jefferson
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