

Common Law, the English statutes which existed at the time of their emigration and which they found applicable to their local circumstances. The immunities and privileges of the charters are emphasized also.<sup>8</sup> Or if we consider the Fairfax Resolutions in Virginia, drawn in 1774 by George Mason, we find that they begin with the old statement that the colonists of Virginia were not a conquered people;<sup>9</sup> and similar citations, showing the basis of the English law might be made from writers from Massachusetts to Georgia.

These were not sufficient to justify the Revolution; and in their need the colonial writers gleaned the rich fields of John Locke's Second Essay on Government, and of the works of continental publicists, adapting from these sources the doctrine of the Law of Nature and basing their claims on the rights which that gave mankind. The only use of this system which we wish now to discuss is the employment of it to explain the legal system of America, in the following manner.

In a very interesting debate, which John Adams has reported for us, the committee appointed by the Continental Congress to state the rights of the colonists discussed the basis on which they should fix their rights.<sup>10</sup> The arguments are too long to quote; suffice it to remark that the radical wing declared that English law did not bind or had not bound the colonists *as* the law of England, but *by their own choosing*, and *only* by their consent. As was indicated above, this idea, so effectively destructive of the sovereignty of Great Britain was not pressed in the Declaration and Resolves; but the same principle was urged by Jefferson in his Summary View, and by John Adams in his *Novanglus*. to mention only two of the framers of political opinion in America. The

---

<sup>8</sup> Adams, C. F.: The works of John Adams, Vol. 2, Appendix C, where the original draft is given for comparison. The Declaration and Resolves may be found conveniently in Macdonald's *Select Charters*, etc., pp. 357-361.

<sup>9</sup> Rowland: *The Life of George Mason*, Vol. 1, Appendix VII. It is not impossible that these were influenced by the Maryland Resolutions of 1722, which had been readopted three years before (See Above p. 64). Mason may have known of these.

<sup>10</sup> Adams, C. F.: *The Works of John Adams*, Vol. II, pp. 370-373.