commands of those that have it; there it presently becomes *tyranny*, whether those that use it are *one* or *many*. Thus we read of *thirty tyrants* at Athens, as well as *one* at Syracuse, and the intolerable dominion of the *Decemviri*, or *ten men* at Rome, was nothing better. *Wherever law ends, tyranny begins.*"

Even the union of but any *two* of these powers, the *legislative* and *executive*, for example, in *one* man, or *body of men*, would leave no chance for *liberty*; because they who make the laws being also to execute them, they would be led to frame oppressive laws, for the sake of the power and wealth which they might derive to themselves, by carrying such laws into execution.

Again, there is no liberty, if the power of *judging* be not separated from *both* the other powers. For where the same persons who make the laws, are either to *execute* them, or to *judge* of their execution; the life and liberty of the subject are wholly at their mercy. These principles are general, and they may now be applied to particular examples.

"In Turkey, these *three* powers are united in the *Sultan*'s person, and therefore the subjects groan under the weight of a most frightful oppression."

"In the *Republics* of Italy, where these three powers are united, in a standing body of magistrates, there is less liberty than in our monarchies; meaning those of France, Spain, &c. "Their government is obliged to have recourse to as violent measures for its support, as even that of the Turks---what a situation must the poor subject be in in these republics!" The same magistrates, as a body, are absolute in every thing. By having the execution of the laws, they possess whatever powers they are pleased to give themselves in making them. They may plunder the state without controul. For, they first of all, in the character of lawgivers, appoint what taxes they please; and, being also the executors of the laws, these taxes come into their own hands, and may be put into their own pockets. Being likewise themselves *judges* amidst all these oppressions, no man can have a remedy against them, and "every private citizen may be ruined by their particular decisions. Although in such a state there is no external pomp (such as arbitrary princes have) that indicates tyranny or despotic sway;" yet the people know it by a surer mark---"They *feel* it every moment." Even at Venice, where the power of the magistracy is said to be somewhat softened, by having different tribunals erected, which temper each other, there is still this mischief---"that these tribunals are composed of magistrates all belonging to the same body, which constitutes almost one and the same power," unaccountable to any other.

These three powers ought then, for the preservation of liberty, to be lodged in separate bodies, and made to controul each other. Montesquieu adds, that for the greater safety, the *judicial* power ought not to be given to a standing senate; but that the judges should be of the same station as the *accused*; or, in other words, their *peers*---amenable to the law; only its mouth, and guided wholly, by its decisions; that, in criminal cases especially, it is proper the person accused should have the privilege of chusing, in some measure, his judges (that is, in our constitution, a *jury*) in concurrence with the law, or at least he should have a right to except against so great a number, that the remainder may be deemed his own choice.

The application of these general doctrines to the English constitution, the corruptions that have crept into it, with the power left in the people for bringing it back to its first principles, and rendering it safer for us than any other we can probably substitute in its room, are important subjects, and too copious to be discussed in this letter.

C A T O.

CASSANDRA TO CATO.

NUMBER III.

I HAVE engaged in the present political controversy with a design to be of service to my country. On an impartial inquiry into the *present* state of the British constitution, it appears to me that it is out of the power of the British legislature to give us *security* for the future enjoyment of our *rights* and *liberties*, and on this ground I have opposed a re-union. I have examined every thing advanced by you on this subject, and find them wide of the mark. The point with me has ever been, *what will secure our liberties?* The question of interest is ever determined thereby. National prosperity, and national happiness, are incompatible with national slavery. It is of small consequence to America, whether God has granted a king to the people of Britain or not; or whether the constitution of their government answers excellently to the inhabitants of that island; if dependence on that excellent form of government is big with *slavery* and *ruin* to America.

If you mean not to *hold your* countrymen in suspence until the day of salvation is past, I call upon you to prove that Great-Britain can offer *any plan* of *constitutional dependence* which will not leave the future enjoyment of our liberties to *hope*, *hazard*, and *uncertainty*, as the Forester has finely expressed it. And that if she *can* there is a probability she *will*. If the one is impossible, or the other *altogether* improbable, yourself must acknowledge it is *time to part*.

By the constitution of Great-Britain the present parliament can make no law which shall bind any future one. For as the author of *lex parliamentaria*, or law of parliament, observes, page 77, when treating of the power and authority of parliaments, "Though it be apparent, what transcendent power and authority the parliament hath; and though *divers parliaments* have attempted to *bar*, restrain, suspend, qualify, or make *void*, the power of *subsequent* parliaments; yet could they never effect it. For the *latter* parliament hath ever power to *abrogate*, *suspend*, *qualify*, *explain*, or make void, the former, in the whole, or in any part thereof, notwithstanding any words of restraint, prohibition, or penalty in the former. For it is a maxim in the law of parliament, *quod leges posteriores priores contrarias abrogant.*" Therefore should any parliament give up, renounce, and for ever quit claim to the right of making laws to bind us in any case whatever; yet it can constitutionally stipulate for no longer than that one sitting. They have as full power and authority to revive and enforce the claim at their next sitting as if such renunciation had never taken place. Is it *wisdom* then, or is there *safety* in entering upon terms of accommodation with a power which cannot stipulate for the performance of *its* engagements. If we are foolish enough to do this, must not our *future* security depend entirely on the *will* of a *British parliament*, i. e. of a *British ministry?*

This, in my opinion, must form an insuperable obstacle to reconciliation in the mind of every honest man and sincere lover of liberty on the continent.

A second reason against reconciliation is, that the British constitution is so effectually undermined by the influence of the crown, that the people of Britain have *no* security for the enjoyment of their *own liberties*, and therefore America can never be safe in being dependent on such a state.

The author of "an historical essay on the English constitution," printed anno 1771, says, "I shall not hesitate to date the outline of our constitution from the REVOLUTION. William the Third and his parliament began the practice of restraining the elective power of the people, by the legislative authority. A power that might become ten thousand times more dangerous, to the elective rights of the people, than the crown could ever possibly be. For whenever the active parts of a government, founded upon the common rights of mankind, shall usurp a power to restrain, or destroy those rights from whence they derive their authority, that *state* is *not far* from *destruction*.

"Thus the primary law of our constitution, the first principle upon which it was founded, which had stood the *test* of *twelve hundred years*, and been the *admiration* of ages, was now reduced to the common level of a *nuisance*, to be corrected by acts of parliament. Our legislative authority is, by its own nature, confined to act within the line of the constitution, because it is only vested with a trust by the people, to the end they may protect and defend them in their rights and privileges. And therefore it is a contradiction in terms, to say they have a right to consent to any that may restrain or destroy them. Their consent to this law was a notorious violation of the trust reposed in them." For,

"Upon this principle our constitution may be *one* thing to *day*, and *another* thing to *morrow*. It is *this*, and *that*, or *any* thing that our legislative authority, for the *time being*, shall think *proper* to *make* it." But "the prevailing faction of those days" after sowing divisions among the people to destroy their power and weaken their force, obtained a law under pretence of providing for the distemper of the times, by which they have lost---nay what have they not lost? They have lost the distinguishing character between freemen and slaves! They have lost the distinguishing character of Englishmen! They have lost what the most tyrannical kings of England could never force from them! They have lost, what their forefathers have been spending their blood and treasure to defend, for these thousand years! They have lost the greatest jewel that ever any people possessed! They have lost their constitutional and natural liberty, their birthright and inheritance, derived from God and nature! They have lost their constitutional redress for all their grievances! They have lost their all, their every thing, by that DAMNABLE SEPTENNIAL LAW."

I shall conclude my quotations from this invaluable essay for the present with the following, as perfectly applicable to America; and the foregoing extracts will not only justify but enforce the doctrine it contains, to every honest heart.

"To deduce our rights from the principles of equity, justice, and the constitution, is very well; but equity and justice are no defence against power. You must take your constitutional rights under your own protection, and that *quickly too*, or they will be *lost for ever*. Protect and defend them as the apple of your eye, from danger, or, as you would your wives and children, from destruction: And never desist from using every remedy" in your power, "till you have established them on a foundation never more to be shaken, either by king or parliament." A constitution that affords no check against its own servants, can yield no *security* to us.

He who has the nomination of the officers of government, has the whole power of that government in his own hand, and may do with it as he pleases. This is abundantly proved by the present ruinous state of government in every colony, where the king or a proprietor had the nomination. Liberty will never flourish in such a government. "By the constitution of the Saxon government," says the author first quoted, "no officer, either civil or military, or *even* ecclesiastical, could be invested in his office, or exercise any jurisdiction or authority over *freemen*, without the *free election* of those *freemen* over whom he was to exercise such authority; and it is for this reason, more especially, that the people of *England* were denominated *free*; for that by the ancient laws and constitution of the kingdom, they had this just and natural right, viz. the free election of their magistrates and governors, without which our ancestors thought all our liberties were but a *species* of bondage. For of what use can liberty be to him, whose person or estate is subject to officers, &c. set over him, without his consent." How different from, and how much superior to, our present form of government, was the Saxon, or old constitution of England!

These three considerations form, in my opinion, an insurmountable obstacle against a re-union with Great-Britain. The man who has not thought upon these points, is ill qualified to judge of the necessity of independence, or the inevitable ruin attendant on re-union.

My objections are radical, reaching to the root of the evil, and if a radical cure cannot be obtained in one way, it ought to be obtained in another. To skin over the wound would be madness. I therefore once more entreat you either to point out a compleat remedy for these defects, and prove it more easily attainable than a compleat delivery by a declaration of independence; or to give no further opposition to the measure. He who cannot see a fair prospect of removing these defects, and yet wishes to see America return to a state of dependence, has something else in view than the liberties of his country.

CASSANDRA.

N. B. No good man can agree to any terms which will not give perfect security, and a division must therefore be intended by every man who attempts to prepare the minds of the ignorant and unwary to accept of any thing else. As every writer on the side of dependence has hitherto studiously evaded the point, it appears they design, if possible, to effect a division. Take care, then, ye good people of America, not to be duped by *distinguished* TORIES.

LONDON, *Dec.* 23.

The substance of lord Shelburne's and lord Mansfield's speeches in the house of lords, on Wednesday, on the third reading of the bill for "prohibiting all trade and intercourse with the twelve united colonies, during the present rebellion in America, and for empowering his majesty to issue commissions to certain persons to grant pardons in the cases, and for the purposes therein mentioned;" with an account of the short debate in which those speeches were introduced.

The order of the day for the third reading of the above bill being read, the bill was accordingly read a third time, and the lord chancellor proceeding to the question:

Marquis of Rockingham. I have a petition in my hand to present to your lordships from the merchants of Bristol, complaining of the hardships they are likely to suffer, should this bill, in its present form, pass into a law. I do not mean to oppose the bill in this stage, but purely to explain a matter relative to the object of this petition. When this petition was offered to be presented in the committee by a noble duke now absent (duke of Manchester) the noble earl over the way (lord Sandwich) rose and observed, that he had a clause which would entirely obviate the apprehensions expressed in the petition. The noble duke, on this assurance, acquiesced; but it has since been discovered, by the friends of the petition, that the amendment proposed by the noble earl, and agreed to by your lordships, by no means comes up to the idea or wishes of the petitioners. It is on that account, therefore, I would recommend to your lordships, before the remedy be out of your power, to bestow some attention to the clause, and as you have declared a desire to relieve the merchants, in every respect, as far as is consistent with the principle of the bill, by giving the clause a review, you will then have it in your power to determine whether or not it might not, with great propriety, still be permitted to undergo further alteration. The amendment I allude to is, that which fixes the time for ships not immediately coming within the description of this bill, from the first of January to the first of August. As the restraining bills of last year permitted the importation of lumber and other commodities from America into the West-India islands; and as by this bill provisions are made, which entirely alter the nature of that indulgence, and annex different conditions, what will be the consequence, but that goods shipped under the faith of the two restraining acts will be liable to confiscation and seizure, as not knowing that the law has been altered by the present bill? To remedy this evil, this unprecedented hardship and injustice, what I would suggest to your lordships would be, to change the commencement of the operation of this bill from the first of January to the first of March, by which means the people and merchants concerned in the West-India trade will have timely notice of the alteration made by this bill, and, by that means, will have it in their power to prevent the confiscations and seizures which must otherwise be the inevitable consequence of their ignorance and want of information. On the whole, my lords, if any relief be really intended to be given to the trading and mercantile part of this country, no possible objection can be raised to the indulgence now desired; if not, and that the property of the merchants, planters, and others concerned in the West-India trade, is to be confiscated, contrary to the faith of two solemn acts of parliament, the effects of such a procedure must be indeed terrible; and the innocent, as well as guilty, will then have a good cause to be alarmed, finding themselves suffering under the pressure of such a weight of power, breaking into acts of the most wanton violence, and most unjustifiable oppression.

Lord Suffolk. It is somewhat extraordinary that this bill should, in this stage, meet with an opposition, after having been so fully before debated, and every possible objection to it fairly and fully obviated. For my part, I think dispatch is now become necessary; and for that reason, I shall not be for admitting any farther delay. As to the petition the noble marquis now offers to present, I take it to be entirely irregular. His lordship should have offered it before this bill was read a third time. The question now before your lordships cannot relate to any particular clause or amendment in the bill; those are already decided on. The question now is, the bill being already read a third time, whether the bill shall pass.——Here the lord chancellor proceeded to put the question, and the marquis gave the petition to the clerk to hand to the chair.

Lord Weymouth. The question cannot now be postponed, though we were ever so desirous. It is therefore, in my opinion, totally irregular, in this stage of the bill, to offer any matter whatever, but what may go to its total rejection. The matter now urged should have been offered on the report. It is now too late, and consequently I shall be for having the question, now before the house, strictly adhered to.

Lord Sandwich. I differ extremely from the noble marquis in the construction of the clause alluded to. No bill ever passed both houses in a more deliberate manner than the present. It was very maturely considered and debated in the other house. That house shewed every possible inclination to render it as palatable as was consistent with the principle of it, and admitted several alterations, in order to render it inoxious to all those against whom it was not immediately directed. I took the liberty to propose some amendments myself, to render it still less liable to any objections which might be made by such as imagined their property to be affected; yet, after all this candour and concession, to come in this stage to offer fresh clauses and amendments, is, I confess, my lords, what I did not at all look for or expect. I am clearly of opinion, that if the amendments suggested by the noble marquis were to take place, it would, in a great measure, totally defeat the intentions of this bill, because the notice given by the amendment would enable all the parties to ship such quantities of goods under that indulgence, that every substantial operation of the bill would be prevented. If, however, any captures or seizures should happen on that account of the ignorance and want of information of any of the persons actually concerned, it will be a good ground for obtaining such redress as the nature and circumstances of the case may deserve; but for making any amendment, which might open a door for collusion, or for evading the principle or different provisions of this bill, I must fairly own I am totally against it. Besides, if the reasons for the proposed amendment of the noble marquis were much stronger, or would be productive of the consequences I