

ceive, to destroy such private rights of property as had been antecedently acquired in this country by persons who happened to be in the British dominions at the time independence was declared.

Our opinion, that the consequence which you deduce from the declaration of independence, and upon which you formed your bill, did not result from that act, is founded on the following considerations. It was well known, that there were many persons residing in England and other parts of the British dominions, when the declaration of independence was made, who were friends to America, and to whom the intention of taking that step could not be known. If congress could have supposed a construction would be given to the declaration of independence, to deprive all residents in the British dominions of property in this country, we presume they would have been explicit and particular in declaring this consequence, and would have given notice, that those who intended to hold their property, and become subjects of the United States, should repair to some one of them, by a particular day, or relinquish all claim to property within the same; for if forfeiture was the certain consequence of not being in America when independence was declared, and all persons, then residents of Great-Britain or other parts of the British dominions, became aliens, incapable of holding property, though acquired antecedently to that event, then no person, though attached to America, could, by returning, however soon after that declaration, have a right to enter on and possess such property; nor could taking the oath of allegiance make such person a citizen, unless a law of the state in which he should take such oath conferred such privilege upon that condition. For an alien cannot ever, by taking an oath to a state, claim the rights of a citizen, unless there be some particular law, conferring those rights upon him on his taking the oath. So unreasonable a consequence, deducible from your construction of the declaration of independence, is a proof with us, that the authors of that laudable and necessary act never expected it would be perverted to countenance such oppression; the construction subsequent to the act, and practice under it, have been conformable to our idea; many persons who resided in Great-Britain when the declaration of independence was made, have since come to America, and have been deemed citizens; others, who never returned, have been deemed citizens, and employed by congress and this state; the suffering those, who now reside in the British dominions, and had heretofore acquired property in this state, or become subjects of it, to hold and enjoy that property, is so far, in our estimation, from being incompatible with our safety, that, by encreasing the number of our subjects, and diminishing that of the enemy, an additional strength would accrue to the state; a principle of policy, which has been adopted by this state in its act of naturalization, and by the wisdom of most other free states. If it be objected to this reasoning, that the principle extends so far, as to give those who had property in this state a right to remain in the British dominions until the conclusion of the war, draw the profits of their estates, and come to this country when its independence is established, to enjoy that property which our arms have secured; we answer, that it is the duty of the legislature, if any danger is apprehended from this consequence, to prevent it, by calling on all who claim property in, to repair to, this state, within a reasonable and limited time, and become subjects thereof, or relinquish all claim to such property. This will be acting in a manner which all mankind must approve as just, and those who neglect to comply with those terms cannot with truth complain, that by a construction being given to the declaration of independence, which they never mistrusted could or would be given to it, and of which they had not the least notice, they have been stripped of their property to the use of the state against which they have not offended. You say the laws and practice of civilised nations will support a seizure of British property. Rules laid down in books on the laws of nations ought to be well weighed and carefully attended to, before they are applied to the present case. We are now an independent nation, and all the rules applicable to independent nations apply to such of our transactions as respect and relate to objects or rights originating from and subsequent to our independence; but are, as we conceive, inapplicable, and improperly adduced, to affect and determine questions concerning the private rights of others, acquired antecedently to that event, and no ways repugnant or opposed to it. This will be clearly discovered, if we attend to the difference between the property acquired by foreigners, in countries sovereign and independent, at the origin of a war, and that which persons subject to the same government acquire before a division and severance of the government and sovereignty. The latter could legally acquire property in every part of the dominions united under the same government, the faith of which was plighted, that property so acquired should be secured to and enjoyed by the acquirers. In case of a dismemberment of the society into two or more distinct or independent societies, the obligation to protect and secure private rights of property, not inconsistent with the safety of these newly formed societies, still subsists, and is equally binding on the new and the old, not by any positive law, for no government will provide for cases springing out of and subsequent to its own dissolution, but that obligation, as we conceive, is founded on natural equity, which can never authorise the depriving of their property unoffending individuals, who once were unquestionably citizens, and who, as they could not foresee, so could they not prevent or guard against those events which have dismembered the British empire.

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