

and necessity, are entertained by different bodies of men. We are not convinced of the justice of the bill, less of its policy, and least of all of its necessity. We have not had sufficient time to make those strict and full researches into the law of nations, which, you say, you have made. As far as we have examined into the subject, we doubt, whether, by a fair construction of that law, the declaration of independence can have such a retrospective operation, as to vest in this state all British property acquired by individuals antecedently to it. We presume the law of nations lays down no rule, by which, in revolutions like the present, the subjects adhering to the old, may be clearly distinguished from those of the new government, otherwise you would not have thought it necessary to ascertain, by a positive law, who shall be deemed British subjects. The distinctions set up by the bill are in some instances arbitrary, and without the sanction of law, ought not of themselves to deprive the persons described of the benefit and privileges of citizenship, and therefore we do not well conceive, how the property of the persons meant to be included in the bill became vested in this state by the law of nations, co-operating with the declaration of independence. Some of the actions which are to constitute the actors British subjects, are of that nature as to make the bill, with respect to them, entirely retrospective, and of course contrary to our declaration of rights; others again are so highly criminal as to subject the offenders to our treason law, a law still subsisting, and evincing beyond the possibility of doubt, that the legislature which passed it, considered some of the very persons as subjects of this state, which the present bill considers as British subjects, thereby depriving them of the trial by jury, subjecting them to all the pains and penalties of treason, except death, inflicting outlawry and exile, without the judgment of their peers, and consequently having in many instances, the full force and effect of a bill of attainder. But admit, for the sake of argument, that by the rigour of the law of nations, the property of all British subjects, as alien enemies, is forfeited, the difficulty of drawing the line to ascertain who shall be deemed British subjects, without wounding the constitution, still remains; under this impression, therefore, we would rather err on the side of indulgence, though not merited, than violate our constitution, by throwing down those barriers with which it has wisely secured the liberty and property of the subject. We are averse from setting a precedent in order to reach persons really criminal, which may hereafter be extended to the oppression of the innocent; intemperate zeal and intemperate resentments have frequently given fatal stabs to governments as free as ours. We need not remind you that the rigour of law is often injustice, and you are too well-in-

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