

parties, therefore, whenever a numerous party thinks it has a right to resist, and finds itself able to declare that opinion sword in hand, the war is to be carried on between them in the same manner as between two different nations; and they are to leave open the same means of preventing enormous violences, and restoring peace. But when a nation becomes divided into two parties, absolutely independent, and no longer acknowledging a common superior, the state is dissolved, and the war, betwixt the two parties, in every respect is the same with that of a *public war between two different nations*. The obligation therefore of observing the common laws of war is absolute, indispensable to both parties, and the same to which the law of nature obliges all nations to observe between state and state."—If the opposition by force, therefore, of the colonies (now United States) from the 19th of April, 1775, to the 4th of July, 1776, may be properly called a *civil war*, we wish to know what rights the people of America could acquire or be entitled to in consequence of it. The learned Rutherford informs us, "nature has made such a connection between mankind, as obliges them to abstain from what is productive of harm to one another, and to do what is productive of mutual good. This connection is the foundation of the law of nature, which may be traced out from the principles of reason. By the law of nations is meant such rule; as nations or civil societies are obliged to observe in their intercourse with one another. The *matter* of both these laws (i. e. the law of nature and of nations) is the same; the law of nations, as well as the law of nature, commands whatever is beneficial, and forbids whatever is hurtful to mankind in general. But whilst the *matter* of them is the same, the *objects* of them are different; the law of nature considers mankind as individual persons; the law of nations considers them as formed into collective persons. Thus the same law, which is called the law of nature, when it is applied to separate and unconnected individuals, is called the law of nations, when it is applied to the collective bodies of civil societies considered as moral agents, or to the several members of civil society considered, not as distinct agents, but as parts of these collective bodies. The law of nature is not the only measure of the obligations that nations may be under towards one another, they may bind themselves to one another by particular compact, or treaties, to do or to avoid what the law of nature has neither commanded nor forbidden, these obligations arise from immediate and direct consent, and extend no further than to those nations, that by their own act of immediate and direct consent, have made themselves parties to them. War of all sorts is governed by the law of nature only, whether it is a solemn one, between nations, or a civil one, between different parts of the same nation.