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A N
E N Q U I R Y
I N T O T H E
R I G H T S
O F T H E
E A S T - I N D I A C O M P A N Y

Of making WAR and PEACE;
and of possessing their
TERRITORIAL ACQUISITIONS
without the Participation or Inspection
of the BRITISH GOVERNMENT.

In a Letter
to the PROPRIETORS of EAST-INDIA STOCK.
Written in the Year 1769.
And now first published.

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violence, by uniting, in the same persons, the several functions of Merchant, Soldier, Financier and Judge; depriving, by that union, all those functions of their mutual checks, by which alone they can be made useful to society.

It is to be hoped that the time is not far off, when those functions, so improperly combined, will be again separated: when his Majesty will resume, from those Merchants, the sword, which, by our happy Constitution, cannot be placed, with energy or safety, in any hand but his own: and when those great territorial revenues in Bengal, which have, of late, been so extravagantly accumulated in the coffers of private men, for trifling or destructive purposes, will be employed in reducing the national debt, as well as in protecting our trade and acquisitions in those distant parts of the world. We might then hope to see an impartial administration of justice in India, without its being subject to the controul of those
who

who are most likely to be the greatest delinquents. We might then hope to see an end to those cruel monopolies, carried on by the Servants of the Company, in the necessaries of life, and to which the wretched natives are obliged to submit, with the bayonet at their throats: and we might then hope to see those Servants once more attentive to the commercial interests of their employers; without attempting to equal, in riches and splendor, the first nobility of the kingdom. But, what is still of greater importance to the free Constitution of this country, we might then hope to see some stop put to the rapid progress of corruption at home; which has been, for some years past, so much promoted by the immense sums lavished by those Servants of the Company, upon their return from India, in order to procure themselves admittance into the House of Commons; where none of them, from the nature of their education, can be supposed to have any thing

to say; and where some of them seem to come, as if they were proud of the privilege they had acquired, of mocking the insufficiency of our laws, and of insulting that honourable Assembly, by their presence.

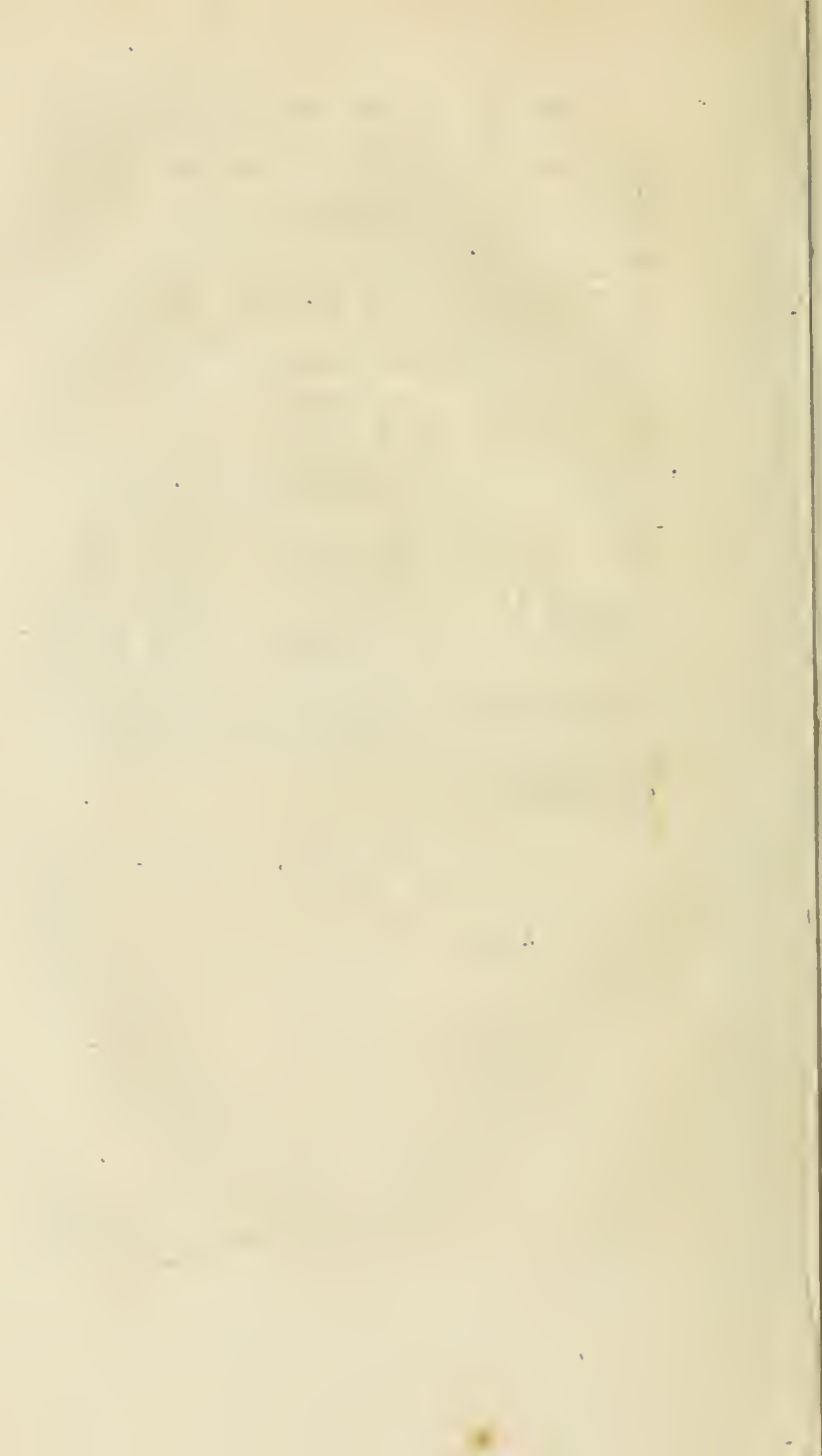
In objection to this salutary change, it has been often urged, “That in a free
 “ country like ours, the individuals have
 “ their legal rights as well as the state;
 “ and that it is always matter of just alarm
 “ when the supreme legislative power lays
 “ its heavy hand upon those rights, even
 “ where there is reason to believe that
 “ they have been abused.” In this I
 entirely agree. But when they proceed to
 tell us, “That the East-India Company
 “ have a legal right of making War and
 “ Peace, and of possessing their territorial
 “ acquisitions, without the participation
 “ or inspection of the British Government,”
 I find myself obliged to give my dissent.
 The grounds of that dissent are to be
 found in the following Letter, written
 above

above two years ago, when Sir JOHN LINDSAY was appointed to command his Majesty's ships in the East-Indies; and though the occasion which produces it now, is somewhat different from that which at first gave birth to it; yet I have suffered it to appear before the public in its original shape; and the rather, because in that shape it recalls the memory of a transaction, by which the true spirit of the Gentlemen who have the management of the Company's affairs in Leadenhall-street, had a fair opportunity of displaying itself.

London, Feb. 18,

1772.

A LETTER



A
L E T T E R
TO THE
PROPRIETORS OF EAST INDIA STOCK,
CONCERNING
The Company's Rights of making War
and Peace, &c.

GENTLEMEN,

I Was at your general meeting on Tuesday last, and find, by a letter sent that day by LORD WEYMOUTH, that the dispute which has for some time subsisted between the Ministry and your Directors is now fully explained, and reduced to this single question, *Whether the officer appointed to command his Majesty's ships in the East Indies shall be consulted, and have a voice, in all matters relative to peace and war in those parts?* To which I find the leading men

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in

in the Direction are very desirous you should give a negative, saying, *that the King's Officer shall be called in and consulted by the Supervisors, whenever they shall stand in need of his advice or assistance, but that he should have no vote in the deliberation.*

These are opinions very essentially different from one another; and which of the two will be most conducive to the honour and interest of the Company will fall upon you to determine at your next General Court, which is to be called for that purpose. *

In the mean time, I could not help observing the different tones with which those different pretensions were urged on the side of the Ministry and on the side of the Directors: for while his Majesty, through his Secretary of state, desired, in a most gracious and condescending manner,
that

* It was then determined that the King's officer should not be admitted to any share with the servants of the company, in their deliberations concerning peace or war.

that the Directors would *allow him some share of power* in the management of peace or war, the Directors, as if they had meant to exhibit to our view the Saturnalia of the ancient Romans, told us in an elevated strain, *that they had already, by their instructions, given as much power to the King's officer as they thought convenient, and were not willing to give any more.*

Struck with the oddity of this scene, I was once on my legs to ask from whence they derived those royal prerogatives of making peace and war, which they had, in so unlimited a manner, delegated to Messrs VANSITTART, SCRAFTON, and FORDE, and of which they were so unwilling to communicate a part to their Sovereign; but was saved that trouble by one of the twenty four, who told us, *that he would, to the utmost of his power, support these rights of the Company, which were derived from acts of parliament, and royal Charters founded upon acts of parliament.*

Having got so far into this enquiry,

I resolved

I resolved to get to the bottom of it; and accordingly, upon my return home, gathered together all the Acts of parliament, and all the royal Charters, that had been made respecting *this* Company, and will now communicate to you, my fellow Proprietors, what has occurred to me on the perusal of them; that such of you, as have not taken the same pains, may be enabled to judge, whether the pretensions to Sovereignty are best founded at the east or at the west end of the town.

The first royal Charter given to *this* Company, and the first that was ever founded on an Act of parliament, is that of the tenth year of King WILLIAM III. in which all that is said, with respect to the powers of making peace or war, is comprised in the following words: “ *Such*
“ *governors or officers shall and may, according*
“ *to the directions of the said company, raise,*
“ *train and muster such military forces as shall*
“ *and may be necessary for the defence of the*
“ *said*

“ *said forts, places and plantations respectively*.” Here is no power granted beyond what every man seems to derive from the Great Charter of God; to wit, that of defending himself in the best manner he can, when that human power to which he owes allegiance, and from which he has a right to expect protection, is at too great a distance to afford it to him. Here is not the least hint of this Sovereign power being deprived of the right of interposing its advice and assistance, whenever it shall think such advice or assistance necessary; on the contrary, as if the present ridiculous dispute had been foreseen, the following words are added: “ *The sovereign right, power and dominion over all the said forts, places and plantations, to us, our heirs and successors, being always reserved.*”

In none of the subsequent Charters is there any thing worth observing, with regard to peace and war, 'till we come to the Charter of the thirteenth of King GEORGE I. and to that of the 26th of his late

late Majesty, commonly called *the Charter of justice*, where a variety of acts of hostility are permitted to the Company, but still strictly confined in their cause, as in the charter of King WILLIAM, to what is *defensive* and what is *just* only. The words are — “ *To assemble, exercise in arms, martial,*
 “ *array, and put in warlike posture, the*
 “ *inhabitants of the said towns and places,*
 “ *either by sea or land, for their especial*
 “ *defence and safety, and to lead and conduct*
 “ *them, and to encounter, repulse, expel and*
 “ *resist, by force of arms, as well by sea, as*
 “ *by land, and also to kill, slay and destroy,*
 “ *by all fitting ways, enterprizes and means*
 “ *whatsoever, all and every such person or*
 “ *persons as shall or may, at any time*
 “ *hereafter, in a hostile manner, attempt*
 “ *or enterprize the destruction, invasion,*
 “ *detriment or annoyance of any of our subjects*
 “ *within the said towns and factories and*
 “ *limits, or any of their servants, or persons*
 “ *dealing with them; and in time of war,*
 “ *or open hostility, to use and exercise martial*
 “ *discipline*

“ discipline and the law martial, in such cases
“ as occasion shall necessarily require and may
“ legally be done, and to take and surprize,
“ by all ways and means whatsoever, all and
“ every such person or persons, with their
“ ships, armour, ammunition, and other goods,
“ as shall in hostile manner, invade or
“ attempt the defeating or destruction of the
“ said towns and places, or the hurt of any of
“ our subjects inhabiting there, or any of their
“ servants, or persons employed by them, and,
“ upon JUST CAUSE, to invade and destroy
“ enemies of the same.”

Here seems to be granted as great a latitude of pillage and destruction as any honest man could wish ; and yet, in less than five years, those gentlemen who had the management of the Company's affairs did not think it sufficient. This gave rise to the Charter of the 31st of his late Majesty, commonly called *the Charter of plunder* ; of which, as it is the main pillar of the extravagant pretensions of the majority of our present set of Directors,
I shall

I shall enter into a more particular discussion, and shall relate to you its history, as well as its contents.

When, upon the defeat and murder of SURAJAH DOULA in 1757, much plunder was taken, some territory acquired, and a clear prospect opened to the Company, or, to speak more properly, to the Servants of the Company, of much more booty and much more territory, they began to be alarmed at their own good fortune; apprehending, and not without reason, that the British government would claim a share in those acquisitions. So, to secure to themselves whatever they might acquire, before the true value of it was known and attended to, the Directors thought it fit to apply by petition to his late Majesty.

The particular purposes of this petition were; first, to obtain an unlimited power of making war and peace with every Prince or people, not Christian, in the East Indies. To effect this, they thought
nothing

nothing could be more conducive than a precedent; so they began their petition by setting forth, “*That by several charters, or letters patent, granted by his Majesty’s royal predecessors to FORMER companies trading to the East Indies, such FORMER companies have had power to send ships of war to their settlements in the East Indies, to raise and keep a military force, and to make peace or war with any Princes or people, not Christian, in any place of their trade.*” This power of *making peace and war* had never, as is here confessed, been granted to *this* company; so, to find what is here alluded to, I was forced to search into the charters of *former* companies, and, at last, found, in the charter of King CHARLES II. to a Company, very differently constituted from the present, the following words: — “*To give power and authority, by commission under their common seal, or otherwise, to make peace or war with any Prince or people, not Christians, in any place of their trade, as shall be most*
C “*for*

*“for the advantage and benefit of the said
“Governor and Company, and of their trade.”*

—A power dishonourable to the Company that desired, to the lawyer who penned, and to the King who granted it. Yet such a power did our directors for the time expect from King GEORGE the second. But they mistook their King, who was too well acquainted with the laws of humanity to empower a trading company to traffick in the lives and fortunes of their fellow creatures, upon so unjust and irrational a distinction as that of their not having embraced a revelation, which, to their great misfortune, had never been revealed to them. And, if they mistook the disposition of their King in supposing he might consent to such a charter, they were no less mistaken in supposing that men of liberal minds, like Mr. PRATT and Mr. YORKE, then Attorney and Solicitor general, would ever lay such a charter before him. And accordingly, although the preamble to their Petition was adopted

as the preamble to the royal charter, the unlimited powers alluded to in it were never granted, or ever intended; as will more fully appear in the course of these observations.

As to the body of this petition it was made up of two articles, one respecting booty, the other respecting territory.

Concerning the booty, the words in the petition run thus: "That your Majesty will be pleased to grant to the East India company, and their successors, all such plunder and booty as may be taken by any of their land or sea forces from any of your Majesty's enemies, or the Indian enemies of the said company, with the like exception as is contained in your Majesty's patent of the 17th September last." * This clause was
admitted

* The patent here alluded to was given for the single purpose of distributing certain booty, already taken in the war carried on against the Nabob SURAJAH DOULA, by the King's ships under Admiral Watson in conjunction with the Company's troops under Colonel Clive.

admitted into the charter with three provisos, the reasons of which are set forth by Mr. PRATT and Mr. YORKE in a letter they wrote to his Majesty, Dec. 24th 1757, accompanying the draught of the Charter.

The PROVISOS are,

1. " Provided those captures are made
" within the limits of the charter."

2. " Provided those captures are made
" in a defensive war, or during a state of
" hostility, commenced merely for the pro-
" tection of their trade and settlements.

*" This is agreeable, say they, to the terms
" and intention of all the charters given to the
" Company by your Majesty, or your royal
" predecessors, which empower them to make
" war in the East Indies, only to recompense
" themselves for losses, or to repel invaders."*

So that it is plain, from the opinions of those learned gentlemen who framed this charter, that the powers conveyed by it, of making peace and war, are not a jot more extensive than those conveyed

to them by the former charters, the nature of which has been already explained.

3. “ Provided that those captures are
“ made by the Company’s forces alone,
“ and not in conjunction with those
“ commissioned by your Majesty’s autho-
“ rity; which will leave it in your Majesty’s
“ breast, in case of joint expeditions, to
“ distribute the plunder or prizes made,
“ amongst the officers, soldiers and sea-
“ men in your service, and those employ-
“ ed by the Company, according to their
“ respective merits; in such manner as
“ may be agreeable to your royal wisdom.”

Come we next to that part of the petition concerning territory, which runs thus : “ That they may hold and enjoy,
“ subject to your Majesty’s right of sove-
“ reignty, all such fortresses, districts
“ and territories, as they have acquired,
“ or may hereafter acquire, from any
“ nation, state or people, by treaty, grant
“ or conquest; WITH power to restore,
“ give up, and dispose of the same, as they
“ shall

“ shall from time to time see occasion ;
 “ subject nevertheless to your Majesty’s
 “ disposition and pleasure as to such lands
 “ as may be acquired by conquest from
 “ the subjects of any European power.”

The first clause of this part of the petition, concerning the Company’s obtaining a right from his Majesty, of holding the territories they might acquire, was entirely rejected; and reasons given for the rejection by his Majesty’s learned servants, in the following words: “ In respect to
 “ such territories as have been, or shall
 “ be acquired, by treaty or grant, from
 “ the great Mogul, or any of the Indian
 “ powers or governments, your Majesty’s
 “ letters patent are not necessary, the
 “ property of the soil vesting in the com-
 “ pany by the Indian grant, * subject only
 “ to

* The virtue here ascribed, by the Attorney and Solicitor General, to grants from Indian Princes, can only be meant of such as have been procured from Princes who are free from constraint, and who are possess both of the legal and actual power of making their concessions good. But of such grants the East India company has never been
 honoured

“ to your Majesty’s right of sovereignty,
 “ over the settlements, as English settle-
 “ ments, and over the inhabitants, as
 “ English subjects, who carry with them
 “ your Majesty’s laws wherever they form
 “ colonies, and receive your Majesty’s pro-
 “ tection by virtue of your royal charters.
 “ With respect to such places as have lately
 “ been acquired by conquest, the property,
 “ as well as the dominion, vests in your
 “ Majesty, by virtue of your known pre-
 “ rogative; and, consequently, the Com-
 “ pany can only derive a right to them
 “ through your Majesty’s grant. But we
 “ submit our humble opinion to your
 “ Majesty, that it is not warranted by
 “ precedent, nor agreeable to sound policy,
 “ nor to the tenor of the charters which
 “ have been laid before us, to make such
 “ a general grant not only of past, but of
 “ future

honoured with any, except that of the Emperor
 FURRUKSEER in 1715, when he bestowed upon them
 fifteen *begas*, or acres of land, wherever they should have
 occasion to build factories.

“ future contingent conquests, made upon
 “ any power, European or Indian, to a
 “ trading company. Many objections
 “ occur to it, more material to be weighed
 “ than explained. If at any time the East
 “ India company, in the prosecution of
 “ their just rights, shall chance to conquer
 “ a fortress or district which may be con-
 “ venient for carrying on their trade, and
 “ is afterwards either ceded to them by
 “ treaty, or proper to be maintained by
 “ force, it is time enough to resort to
 “ your Majesty, for your royal grant,
 “ whenever the case happens.”

The latter clause, concerning the power
 of restoring, giving up, and *disposing* of
 what they might conquer, was granted.
 It had been asked, upon a doubt that the
 Company was not enabled, by any of their
 then subsisting charters, to yield up con-
 quests made on the Indian Princes or
 Governments, without his Majesty's li-
 cence in every instance, the procuring of
 which might be attended with great
 delay

delay in pressing exigencies : and it was granted, as appears from the letter just cited, upon this humane principle, that although it might be dangerous to encourage the company to invade the lands of their neighbours, by allowing them to appropriate whatever they might so lay hold on ; yet to encourage them to make peace, could not be liable to objection ; and the two learned gentlemen observe, *that without this power of ceding what they had conquered, they might have the permission of making peace, without the means of obtaining it.* I cannot, however, avoid observing, that this power, without a particular attention from His Majesty, is subject to great abuse ; especially in the hands of rapacious men, who, without caring for what is to follow, are desirous of returning to their own country with enormous sums of money acquired in a short time. The power of *disposing* of what they conquer may easily incline such men to conquer lands for the sake of *disposing* of them to

the best bidder ; and I am not sure but that the annals of India have already furnished examples of such abuses*.

And, indeed, without His Majesty's particular attention to the conduct of the East-India Company abroad, not only this, but all the former charters, might serve as authority for every degree of cruelty and rapine. It is said, for instance, that the Company's officers may, *upon just cause*, invade and destroy their enemies : but it could never be meant that they should have the sole cognizance, and be the sole judges of their own transgressions. Certainly not ; for, if so, the sovereign power, expressly reserved by the Charters, would virtually devolve upon them : and they would be truly sovereign, and answerable to God alone for the injustice of their wars ; a pretension which

* See Mr. Bolts's account of the cession of the Zemindary of Bulwant Sing to SOUJAH AL DOULAH. *Considerations on East-India affairs. Chap. iii. page 30.*

which I have not yet heard any Director bold enough to assert.

To return to my *Charter of Plunder*. It appears to me, upon a full consideration of it, with all its accompaniments, that the Directors were exceedingly unlucky in having obtained it; for it certainly does not convey any Right of which they were not possessed before; but, on the contrary, by their bringing forth this new charter, so explained by those learned men, who had the framing of it, and so understood by the King when he gave it his Royal sanction, they have lessened the validity of King WILLIAM'S charter, by which all their future acquisitions seem to have been secured to them, as far as words can go, in the most unlimited manner. For the charter of King WILLIAM says, "*That*
"*the Company shall be a body politic and cor-*
"*porate, capable in law to have, take, pur-*
"*chase, receive, hold, keep, possess, enjoy and*
"*retain, to and for the use of them and their*
"*successors, any manors, messuages, lands,*
"*rents,*

“ rents, tenements, liberties, privileges, fran-
 “ chises, hereditaments and possessions whatso-
 “ ever, and of what kind, nature and qua-
 “ lity soever ; and moreover to purchase and
 “ acquire all goods and chattels whatsoever,
 “ wherein they are not restrained by the said
 “ act ; and also to sell, grant, demise, alien
 “ or dispose of the same manors, messuages,
 “ lands, rents, tenements, liberties, privileges,
 “ franchises, hereditaments, possessions, goods
 “ and chattels, or any of them.” Here the

Company is authorized to take, acquire and retain, for their own use, all manner of lands, rents or goods ; and again, to alien and dispose of, at their pleasure, all such lands, rents, and goods ; and this in such a profusion of different terms, as if the whole words of the language were to be guarantees for this unlimited Right of acquiring and alienating. It may be said, indeed, and I believe justly, that King WILLIAM and his learned council had it not in their contemplation to permit, by any, or all of those words, that the Kingdoms of Bengal,

Bahar,

Bahar, and Oriffa, should be claimed as private property, or disposed of as such, by the East-India Company; or that the Crown should not claim a Right of being consulted in the disposal of them or their revenues. But this reservation would have equally subsisted in whatever words the charter had been conceived, and would equally subsist under any new charter; the elementary principles in every government not only empowering, but requiring the supreme power to waive every consideration of private Rights, whenever such private Rights become, in a great degree, detrimental or dangerous to the public.

How far an Act of parliament might limit His Majesty's known prerogative of making peace or war in any particular part of the globe, I will not take upon me to enquire. The enquiry is altogether foreign to the present subject, as no such Act of parliament can be here alledged. The Right of appointing a *sole* Plenipotentiary

tentiary for treating with Indian, as well as with other Princes, is certainly still vested in His Majesty; but the exercise of such a Right would not fully answer His Majesty's gracious purpose, which is to assist the East-India Company, and to assist them in such a way as their own knowledge in their own affairs shall point out to the judgment of his Servant, in council and in concurrence with theirs. Where there is a common interest of such great importance, sound reason seems to demand, that the care and deliberation concerning it should be in common likewise: and it is to our reason His Majesty is pleased to appeal, not in the tone of an imperious master to his servants, but in that of an indulgent parent to his children.

You may perceive, my fellow Proprietors, that in this long letter I have said very little with regard to the expediency or utility of the proposed measure. This is
owing

owing to my having observed, that the controversy, at our last meeting, did not turn upon that point, but barely upon the impropriety of suffering any encroachment to be made upon the Company's established Rights. Were any encroachment intended upon the just or legal Rights of the Company, there is no one would be seen more forward in their defence than myself, both as a friend to the Company, and as a friend to the state. The security of private property, and of private rights of every kind, is the root of commerce, of population, of riches, and of strength in every state; and the statesman, who takes any step by which those private Rights are rendered precarious, discovers himself to be but ill qualified for the place he fills. But here is no such invasion attempted; but, on the contrary, an attempt of private persons to invade the Rights of the public, by challenging to themselves a prerogative which belongs only to the heads of kingdoms and independent Republics. I have, therefore,

therefore, endeavoured to shew you what are in reality the Rights of the East-India Company with regard to making peace and war, by quoting what is to be found in our several charters concerning them, and shall now recapitulate and sum up the whole, by observing :

That whatever passages are to be found in those charters concerning peace and war, are merely emanations of the royal Will and Pleasure ; no such being specified in the Act of Parliament, which only authorizes King WILLIAM and his successors to grant to the Company, from time to time, by their letters patent, such powers and privileges as to him or them shall seem fitting.

That in none of those letters patent, or charters, is it said, in express terms, that the Company is absolutely empowered to make war and peace ; and that what is mentioned in those charters concerning acts of hostility, is strictly confined to such acts of hostility as are for the defence of the Company's property, retaliation of injuries,

or

or other *just cause*, the judgment of which cannot, in common sense, rest with the Company ; but falls to His Majesty, the supreme Arbiter, by the British constitution, of all matters of peace and war.

That, although King WILLIAM and the succeeding Kings of England, had not expressly reserved to themselves their sovereign Right and Authority over the East-Indian settlements, and had granted to the Company the most unlimited power of making war and peace ; yet could they not, by any form of words, denude themselves of that sovereign power, and could only be supposed to have delegated it to the Company, as to their Attorney or Plenipotentiary, till such time as it should be their royal pleasure to resume or limit it.

That, as by the Charters of the 13th of King GEORGE the first, and of the 27th of King GEORGE the second, the Company is authorized *to invade and*

E

destroy

destroy upon Just Cause only, and are particularly amenable to His Majesty for any breach of their Charter in this respect, it is perfectly regular and necessary that His Majesty should have complete knowledge, from his own Officer, of the rise and progress of all wars carried on in the East-Indies, in order to know what wars are carried on in compliance with the terms of the Charter, and what not.

And lastly, That when there is the greatest reason to believe, that the Company's Servants have made a greedy and dangerous use of those powers, we ought to admire His Majesty's goodness, who, instead of depriving us of them altogether, endeavours to interpose his fatherly care in preventing any farther abuse of them.

Before I conclude this paper, give me leave, my fellow Proprietors, to add one general Observation, which struck me on comparing together the several Charters of the East-India Company, which is, that

in proportion as the *real* power of the Company increased, its *legal* power and authority have been diminished. How far it will be for the advantage of the Proprietors, that Government should still proceed in narrowing the bounds of the Company's authority, I will not now enquire: but those who think farther limitations disadvantageous, will, in my humble opinion, find that the most effectual method to prevent them, will be by using the power they still possess, with justice and humanity towards those they call their subjects in India; and with modesty and obedience to those whom they ought to consider as their Rulers in Great Britain. I am, with great respect,

Gentlemen,

Your most obedient,

and most humble Servant,

AN OLD PROPRIETOR,

London, August 18,

1769.

