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*W. Williams  
May 1770*

T H E

S T A T E

O F T H E

L A N D S

SAID TO BE ONCE WITHIN THE

BOUNDS OF THE CHARTER

O F T H E C O L O N Y O F

C O N N E C T I C U T,

West of the Province of NEW-YORK,

C O N S I D E R E D.

By the PUBLICK's humble Servant, \*\*\*



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# The S T A T E, &c.



THE Affair of the Susquehannah Land, hath become a Matter considerably interesting, both in the Assembly, and in the Colony in general, both to the Adventurers, and to those Inhabitants of the Colony that are not: Much hath been said, and much hath been written and published on the Subject; particularly in Part of a Letter sent by Dr. Gale, to J. W. Esq; and a small Pamphlet, entitled, "Remarks on the aforesaid Letter, subscribed E. D." from which last Piece I had my Expectations something raised, that I should find in it something satisfying, that it would be safe and prudent for the Government to grant, and reasonable for the Adventurers to expect, that they should have a Conveyance made to them of the Land they seem to be desirous of; but on reading the same, found my Expectations sadly disappointed; and instead of a clear, calm, and dispassionate Display of the Government's Right to grant, and also of the Merit, or some distinguishing Deservings of the Adventurers, that would justly give them the Preference to the rest of the Inhabitants of the Colony, to take the same, — I found the Piece replenished with very opprobrious Invectives against the poor Doctor (to borrow one among many of his Epithets) as tho' it would fully answer his own End, if he could but set him in an odious, contemptible, and ridiculous Light; and also, as if he imagined it must be taken for granted, that it must be right and prudent for the Government to grant, and for the Adventurers to take, if he could make the Doctor, who opposes it, appear to be a bad Man; but will not the impartial Enquirer be prone to suspect, not only that the Doctor is abused, but also that the Cause is really bad, when such Weapons are used to defend it? And I am sincerely sorry, that a Gentleman of so dignified and distinguished a Character, should write on such an interesting Subject, in such a Manner. Indeed he closes his Piece with a Confession, that if it is not to be understood a mere Compliment to his own Performance, would afford some Foundation to believe, that he himself thought the Thing deserved to be treated at least with this Freedom: But then why did he publish it? Hence I should dismiss the Remark and his Remarks, if it was not for a gross Misrepresentation of some very material Facts (as I apprehend) which he lays down as the Basis on which he builds his greatest Arguments in the Case; and which I shall take Notice of, in the Course of my Considerations

tions, of the great Question in this Affair, viz, Is it safe? Is it prudent for the Government to make any Conveyance of any Kind of the Land on the Susquehannah River, or any where West of New-York Province, to the Adventurers, who call themselves 'The Susquehannah Company,' or any others? And till I am better informed, and have more convincing Light than hath yet been offered to me, either from Conversation or Writing, must profess myself to be on the Negative Side of the Question; and shall give the Reasons of my Opinion, in as short, concise, and intelligible a Manner as I am able; and shall endeavour to steer clear of any scurrilous Reflections, either upon the Doctor, the Lawyer, or the Judge. And I shall first take Notice, that without all Doubt, the Land is challenged and claimed by the Proprietors of Pennsylvania Government: I suppose, that in this I shall not be contradicted. From thence we must reasonably think, that those Claimers will prosecute their Claims to the utmost, and not give up their Pretensions till it be decided in Law or Equity, or both: Hence a Controversy will ensue, and a Controversy that will be attended with no small Expence to the Parties, be they who they will. But it hath been said, that if the Government makes no other but a Grant of all the Right the Colony hath; there cannot be any Danger of the Colony's being either dragged into a Controversy, or subjected to Cost and Damage. Some with an Air of Triumph, are bold to say, there can be no Danger; and bid a Challenge to all Mankind, to produce an Instance of a Case, adjudged to the contrary. For my own Part, I should look upon myself too assuming, and too bold, to aver, there never was a Judgment contrary to such an Opinion; because my own Reading was not large enough to have met with such a Determination; but I beg Liberty to quere, Whether there is not some Difference between the Grant of a particular Person, acting in his private and natural Capacity, and the Grant of a Corporation, holding in Trust, and acting in their public and political Capacities? Has it not always been adjudged a Crime in a Corporation, to extend their own Authority, and undertake to make Grants out of their Jurisdiction? Whether such a Transaction hath not been adjudged a Misuser, which will be acknowledged to be a Forfeiture in Law? This I leave to the learned in the Law, to determine. If we look back no farther than the Reign of Queen Elizabeth, and so on to this Time, and examine the State Trials in that Period, I will own myself much mistaken, if there will not be found Judgments against Corporations for such and for less Offences. Can we have any Reason to believe, that a Man, so jealous of, and so well acquainted with his own Interest, as Mr. Penn is, would not rejoice at an Opportunity, to make his Complaint against a Colony, rather than a few particular Persons, that he would not know how to come at, in Case he should recover against them. Certainly we must think he is not endowed with common Prudence, if he should not choose to have the

Government for his Antagonist, rather than a few particular Persons. Now, what if we should for once suppose, that the Government should undertake to make a Conveyance of that Land, and Mr. Penn should commence some Sort of an Action or other against the Government, for so doing, in the Court at Great Britain; for there I suppose it must be finally tried, whenever it is tried; but more of this hereafter; at present I quere, what will be the Consequences to the Colony, in such a Case? Will the Colony be willing to have Judgment pass in the Case, without being heard? I trust they will not. Well then, the least that can be done, must be to appoint an Agent: and it is not unlikely to me, that they will think it as necessary to appoint a special Agent in that Case, as it was in Mason's Case; doubtless it will be fully as needful; for the Matter is of vastly greater Importance; and that Agent must employ an Attorney or Attornies, to solicit the Cause under him. Now, suppose I should be right in these Conjectures, What will it cost the Colony? Is it not a good Rule in these Cases, to argue from what is past, to what is to come? Our present Agent, Mr. Johnson, now in Great Britain, specially appointed in Mason's Case, is supported there on the Colony's Charge, at not much, if any Thing less, as I suppose, than £. 700 Sterling a Year, some say, £. 1000; his Salary £. 200, his Subsistence not less than £. 400, his Cloathing, with many &c's, £. 100, if not more; add to this, the Solicitor's Bill, which doubtless will be no inconsiderable Sum, where it is no very uncommon Thing for a Gentleman of Distinction in that Order of Men there, to receive 500 Guineas for their detaining Fee only. Now these Things, in Case the Government should undertake to make a Conveyance, appear to me to be on the Side of not only Possibility, but Probability, if not more than so: So that I think in this View of the Case, there is no disinterested Person, but what will think with me, that it is not prudent for the Government to undertake to make a Conveyance of any of those Lands.

Again, I must in Addition to what I have said, with Respect to the Prudence of the Government's granting these Lands, call in Question in my own Mind, the Safety of the Colony for them to do so; for to me it appears, that the Colony at this Day, in Judgment of Law or Equity, is not bounded on the East by the Narraganset Bay, and on the West by the South-Seas. I am very sensible, that these are the Boundaries mentioned in the Charter, granted by King Charles II. to the Governor and Company of this Colony; which Charter is dated in 1662. Here the Remarker on Dr. Gale's Letter, undertakes to shew, that verily the Colony, antecedent to the Grant of the Charter, had legally purchased all this Extent of Country, contained between these Limits. Vid. Remarks, Page 20. And the Charter is therefore to be considered as a Confirmation of that which the Colony had before really purchased; this I take to be a real Misrepresentation of a material Fact in the Case.

He

He first notes the Constitution of the Council of New-England, commonly called the Council of Plimouth; and then the Grant of that Board to the Earl of Warwick, and then the Earl of Warwick's Conveyance to Lord Say and Seal, Lord Brook and Lord Rich; and lastly, that those Lords sold to the Inhabitants of Connecticut, by their Agent-Mr. Fenwick. Here I would ask that Gentleman, Whether he ever saw that Deed, or a Record of that Conveyance from Lord Say, &c. by themselves, or by their Agent Fenwick, to the Inhabitants of Connecticut, either in this Country, or any where else? I have been informed (I suppose without Reflection on any Man) by the best Antiquary in the Colony, who is undoubtedly the best acquainted with the ancient Records and Transactions done in, or relative to the Colony, of say Man whatever; that truly there never was a Deed executed by those Lords that purchased of the Earl of Warwick, neither by themselves or by their Agent or Attorney, to the People of Connecticut, and sent to them; neither have the Government any Evidence or Knowledge of a Deed being made either by those Lords or their Attorney to this Day. I suppose it to be true, that Mr. Fenwick was sent over from England, Agent for those Noblemen, to take Care of their Interest; who came and built a Fort at Saybrook; and many Transactions were had between him and the People of Connecticut; ultimately, he agreed to throw all into a common Interest, and he was to take his Lot with the other Inhabitants of the Colony; and on their Part, the People of Connecticut were to pay a certain Toll or Tribute for all Grain, &c. that should be exported out of, or from Connecticut River. And afterwards Mr. Fenwick returned to England, and left one Mr. Hook his Substitute, and promised to get said Agreement completed, by procuring for, and sending to the People of Connecticut, a Deed or Transfer of those Noblemen's Rights and Interest: This Agreement I understand was afterwards altered by coming into a new One; by which it was stipulated, that instead of the Duty on Exports from the River, the People of Connecticut should pay a Sum in Gross, which was about £. 180, in Silver Money; which was punctually paid. And afterwards this Mr. Hook went to England, promising, as Mr. Fenwick had done before him, that the Deed beforementioned, from them Noblemen, should be procured and sent; but the same I perceive never was sent, nor never made or executed, that the Colony ever knew. So that if the Gentlemen depends upon the Colony's Purchase, antecedent to the Grant of the Charter, to make out the Title, it must necessarily fail; because there appears a perfect Chasm, an intire Link in the Chain wanting. But farther, another Reason of my doubting the Bounds of the Colony, extending legally at this Day West to the South-Sea, is this: The Charter of the Colony was granted in the Year 1662; at that Time the Dutch, then in Amity with the Crown of England, were in actual Possession of the whole Province of New-

New-York; and more, they were in Possession of the Land on both Sides of the North, now called Hudson's River; and how far West from thence, I suppose equally unknown to the Remarker, as to myself. It is, as I take it, pretty certain, that they were also in Possession of the Land on both Sides the South, now called Delaware River, and how much farther West, neither he nor I know, I presume. Now I believe, there is no Man acquainted with the Law, but will at once yield and allow, that the Charter could not operate, to give the Grantees any Title to the Lands at the Time of the Grant made, that was in the Possession of the Subjects of a foreign Power. It may with great Propriety and Truth be said, that the King was deceived, with Respect to that Land possessed by the Dutch; and so as to that must be allowed to be void. This the Remarker seems to think must be admitted; but then supposes that we may skip over New-York Province, and begin again, and extend our Claim Westward to the South-Sea; and that because by our antecedent Purchases, and the Charter confirming those Purchases, the Colony became vested with the Fee and Property of all those Lands; and we could not be divested of them but by our own Act; and we not having made any Grant or Dispositions of those Lands, they remain the Property of the Colony to this Day.

This I shall consider by-and-by; I shall at present further observe, that in 1664, two Years after the Grant of the Charter to the Colony, the Dutch ceded all New-Netherlands, containing all their Right and Claim in this Country, to the Crown of England; and King Charles the Second, the then reigning Prince on the Throne, in the same Year 1664, granted those Lands, possessed before by the Dutch, to his Brother James, then Duke of York, afterwards King James the Second: And in the same Year 1664, appointed Nicols, Cartwright and Marverick, Commissioners, with full Power and Authority to settle the Boundaries between his Royal Highness the Duke's Territory, and the Colony of Connecticut. And this Colony appointed Gov. Winthrop, Mr. Allen, Mr. Richards, Mr. Gold, and Mr. John Winthrop, jun. Commissioners to act in the Affair of the Settlement to be made. Which Gentlemen met the afore-named Commissioners of the King, at the Fort in New-York, in November or December, in the same Year 1664, where all the above-named Commissioners, both on the Part of the Crown and the Colony, made the following Settlement, viz.

“ BY Virtue of his Majesty's Commission, we have heard the  
 “ Difference about the Bounds of the Patents granted to his Royal  
 “ Highness the Duke of York, and his Majesty's Colony of Con-  
 “ necticut; and having deliberately considered all the Reasons  
 “ alledged by Mr. Allen, sen. Mr. Gold, Mr. Richards, and  
 “ Capt. Winthrop, appointed by the Assembly held at Hartford,  
 “ the 13th of October 1664, to accompany John Winthrop, Esq;  
 “ the Governor of his Majesty's Colony of Connecticut, to New-  
 “ York,

“ York, and to agree upon the Bounds of said Colony; why the  
 “ said Long-Island should be under the Government of Connecti-  
 “ cut (which are too long here to be recited) we do declare and  
 “ order, That the Southern Bounds of his Majesty’s Colony of  
 “ Connecticut, is the Sea; and that Long-Island is to be under the  
 “ Government of his Royal Highness, the Duke of York; as is  
 “ expressed by plain Words in the said Patents respectively, and  
 “ also by Virtue of his Majesty’s Commission, and by Consent of  
 “ both Governors, and the Gentlemen above-named.

“ We order and declare, that the Creek or River, called Mama-  
 “ roneck, which is reputed to be about thirteen Miles to the East  
 “ of West-Chester, and a Line drawn from the East Point or Side  
 “ where the fresh Water falls into the Salt, at High-Water Mark,  
 “ North North-West, to the Line of the Massachusetts, be the  
 “ Western Bounds of the said Colony of Connecticut, and all  
 “ Plantations lying Westward of that Creek and Line so drawn, to  
 “ be under his Royal Highness’s Government; and all Plantations  
 “ lying Eastward of that Creek and Line, to be under the Govern-  
 “ ment of Connecticut.

“ Given under our Hands, at James Fort, in New-York, on the  
 “ Island of Manhattens; this First Day of December, 1664.

RICHARD NICOLS,  
 GEORGE CARTWRIGHT,  
 S. MAVERICK.

“ WE the Governor and Commissioners of the General Assem-  
 “ bly of Connecticut, do give our Consent to the Limits and  
 “ Bounds above-mentioned. As witness our Hands,

JOHN WINTHROP,  
 — ALLEN, sen.  
 — RICHARDS,  
 — GOLD,  
 JOHN WINTHROP, jun.”

Now altho’ the Observation made by the Remarker, is true in  
 general; viz. That when a particular Person, or a Body corpo-  
 rate, are once lawfully seized of Lands, they cannot be divested of  
 the Fee and Property of those Lands, without their Act and Con-  
 sent; yet, is that the present Case? If we should for once suppose,  
 that the Colony was once seized in Fee of all the Lands from the  
 Narraganset-Bay on the East, to the South-Sea on the West, that  
 lyeth between the North and South Bounds of the Colony; yet  
 hath not the Colony, more than an Hundred Years ago, by their  
 Commissioners appointed for that very Purpose, in Conjunction  
 with Commissioners appointed by the Crown, agreed to and fixed  
 the Bounds of the Colony, to be where they are above-mentioned  
 to be; whatever Alterations have been since made, still those  
 Alterations were made by the Colony, thro’ the Instrumentality of  
 Agents or Commissioners appointed by the Colony: Now is it not  
 apparent



apparent, that if the Land was once the Colony's, that they have parted with it by their own Act, Consent and Agreement?

I am sensible, that it hath been said and argued strongly, that the Agreement made in 1664, was conversant only about Jurisdiction; and not about the Property of the Land; and that Agreement notwithstanding, the Colony still remain seized of the Fee and Property of all the Land contained in the Bounds of the Charter; and that because, tho' we have parted with the Jurisdiction, yet the Jurisdiction may be in one Colony, and the Fee and Property in another. I doubt not, but without Offence to any, I may venture to querie upon these Arguments; and with Modesty to shew, wherein they are not convincing to me: And with Respect to that Agreement in 1664, being conversant only about Jurisdiction, and not Fee and Property of Land, I beg Liberty to ask, Whether the Bounds and Limits of the Patents granted to the Duke of York, and to the Colony of Connecticut, are not mentioned in that Agreement, as the principal Matter of Difference that then subsisted, and the Parties to that Agreement were about to accommodate? I am greatly mistaken if it be not so. Now, if the Bounds and Limits of the Patents, is what was really the Matter of Difference then subsisting, and then to be, and was then actually settled, it seems to me natural and necessary to conclude, that something more is included in that Agreement than bare Jurisdiction, or a Right to govern the Settlers on those Lands; for the Patent or Charter, is the only legal Evidence of our Title to the Land; and if the Evidence of our Title is given up, the Title itself is given up and gone. This I take to be Law and Reason; but it will doubtless be said, the Charter is not given up. True; but the Extent of it farther Westward, than the Line agreed upon, I apprehend by plain and express Words in the Agreement, is given up: So that it seems to be clear, that the Colony at this Day, as a Colony, have no legal or equitable Right to any Lands Westward of the Line agreed upon at New-York, in 1664. Indeed, if the Colony, antecedent to that Agreement, or any subsequent One, made a Grant or Grants to any Man or Number of Men, and they had entered upon, and had taken Possession of the Lands granted, such Grantees could not be affected by those Agreements, unless they had been Parties to such Agreement; for the Government could no more argue away the Property of particular Persons, than the King could resume his Grant made to the Colony.

Moreover, it seems to me, that that Position, that the Jurisdiction of Land may be in one Colony, and the Fee and Property in another Colony, is a Novelty both in Law and Policy. That a particular Person may be an Inhabitant in one Colony, and Owner of Land in Fee in another Colony, is not doubted: But will it follow, that when one Colony is vested with a full and complete Jurisdiction of a Tract of Land, that still the Fee and Property

of that same Land may be in another Colony? I think by no Means. Is it not true, that that Colony, that hath a full and complete Jurisdiction of Land, have a Right of disposing of that Land? I think this is proved *ex vi Termini*. Now, if the Colony that hath the Jurisdiction, hath a Right of disposing of that Land, then another Colony cannot be the Owners and Proprietors of it, without supposing that two Colonies may be Owners of the same Land at the same Time, which is absurd. We know, that by the Rules of the Common Law, Land may pass by Deed, without mentioning the Word Lands in the Deed; as for Instance: Where a Grant is made of all the Trees in such a Place, the Land passeth by that Grant; and is it not full as reasonable, that the Fee and Property of Lands, should be adjudged to be granted, by granting a full and complete Jurisdiction of them Lands? So that it is not at all probable to me, that Connecticut will ever be able to save any of those Lands by Force, of that Distinction; for it sounds too much of Nicety and Criticism.

Moreover, it seems to me most safe, to consider the Matter in the same Light if we can, that it is probable the Judges will view it whenever it comes to be judicially determined. And here I would observe, as I before hinted, that I suppose this Cause, whenever it is finally or judicially determined, must be by the Court in Great Britain; for if the Government should intermeddle in the Matter, it would then be a Dispute of one Government with another; and which will have the Right of determining the Controversy. Indeed I conclude, that neither have that Right; for both claim the Property, and consequently the Jurisdiction: For the Charter of this Colony, and I suppose the Charter of Pennsylvania, to be in this Respect similar; that there is no Distinction between the Limits of Property and Jurisdiction, but every Inhabitant within the Limits of the Colony Lands, are subject to the Government of the Colony; and all Inhabitants within the Bounds of our Charter, have the same Right to the Privileges, Immunities, Protection, and Defence of the Government, one as well as another. Any Inhabitants, let them live farther off, or nearer to the present Seat of Government, claiming any or all those Rights and Privileges, I presume the Government dare not deny them. A recent Instance of this, we have in the Case of the four Towns of Suffield, Enfield, Summers, and Woodstock, who came off from the Massachusetts, claimed to be of Connecticut, and were received, as I apprehend, upon these very Principles; and perhaps as these Things may turn out, the Seat of Government may in Time, be removed from Hartford and New-Haven, and carried Westward of Mississippi River; which I suppose to be nearer the Center than either of the before-mentioned Places, if the Colony now rightfully extends to the South-Sea. Now, if the Government should undertake to make a Transfer of those Lands, and a Town or Towns should be settled at Wyoming, or any  
where

where within the Bounds of such Conveyance, in Case such Towns should be attacked by an Enemy, Indians, or others, they would have the same Right to Protection and Defence from the Colony, as Canaan, Salisbury, or any other Frontier Town in the Colony; and the Colony would be as criminal in neglecting the Protection and Defence of the one as the other. From these Considerations, if there was nothing else in the Case, it appears to me neither prudent nor safe for the Colony to undertake to make any Conveyance of those Lands.

But to return. If neither Connecticut nor Pennsylvania have a Right to determine and finish the Dispute, viz. Who have the Right to these Lands? then an Appeal must be had to some Authority that hath a juridical Power over both; and I suppose that none will question, but that this Power rests only in the Court of Great Britain; and in all such Cases, 'tis undoubtedly a great Blessing to both Colonies, that there is a Power above us, to hold the Ballance between us: for if there was none, there would be no Appeal in such Cases but to the Sword; but thank God, we are not left in such a State.

Now, to me it is probable, that the Court, in order to determine the Matter, will not confine themselves to mere nice and critical Expositions and Constructions of Words, but will give it a more large and generous Construction, will doubtless view the Agreement in the Intent and Meaning; the End and Design of the Thing, as well as the Thing itself, and consider it in the Effects and Consequences of it, together with the Act of the Crown, approving, ratifying, and confirming the Limits of the Western Extent of the Colony, as it is fixed by the Agreement and Consent of the Colony.

And have we not Reason to believe, (if they should view it both in a legal and equitable Light) that the Result will be similar to the Opinion of a very great Lawyer, already had. No less a Man than the present Lord Chancellor of Great Britain, the Lord Camden, who was then the King's Attorney General, who, upon Application to him made, stated the Case, and gave his Opinion upon it in the Words following, viz.

“ If all the Colonies in North-America, were to remain at this  
 “ Day bounded in Point of Right, as they are described in the  
 “ original Grants of each; I do not believe there is one Settle-  
 “ ment in that Part of the Globe, that has not in some Measure  
 “ either been encroached upon, or else usurped upon its Neigh-  
 “ bours: So that if the Grants were of themselves the only Rule  
 “ between the contending Plantations, there never could be an  
 “ End of their Disputes, without unsettling large Tracts of Land.  
 “ Where the Inhabitants have no better Titles to produce, than  
 “ either Possession or posterior Grants which in Point of Law,  
 “ would be superceded by prior Charters; hence I conceive, that  
 “ many other Circumstances must be taken into Consideration,  
 besides

“ besides the Parchment Boundary; for that may, at this Day, be  
 “ extended or narrowed by Possession, Acquiescence or Agree-  
 “ ment, by the Situation and Condition of the Territory, at the  
 “ Time of the Grant, as well as by various other Matters. With  
 “ Respect to the present Dispute, the Western Boundary of Con-  
 “ necticut, was barr'd at the Time of the original Grant, by the  
 “ Dutch Settlement; and the Crown were deceived, when they were  
 “ prevailed upon to convey a Territory, which belonged to another  
 “ State, then in Amity with the Crown of England; besides this  
 “ Objection, the Settlement of the new Boundary under the King's  
 “ Commission, in 1664. And what is still stronger, the new Line  
 “ marked out by Agreement between this Province and New-York,  
 “ has now conclusively precluded Connecticut from advancing one  
 “ Foot beyond these Limits.

“ It was absolutely necessary for the Crown, after the Cession  
 “ of New-Netherlands, to decide the clashing Rights of the Duke  
 “ of York, and the adjoining Colonies; and therefore all that  
 “ was done by Virtue of that Commission, then awarded for that  
 “ Purpose, must at this Day be deemed valid, as the Nations have,  
 “ ever since that Time, submitted to those Determinations; and  
 “ the Colonies of New-York and Jersey, submit only upon the  
 “ Authority of those Acts.

“ I am of Opinion therefore, that the Province of Connecticut,  
 “ has no Right to resume their ancient Boundary, by over-leaping  
 “ the Province of New-York, or to encroach upon the Pennsylvania  
 “ Grant; which was not made till after the Connecticut Boundary  
 “ had been reduced by new Confines, which restored the Lands  
 “ beyond those Settlements Westward, to the Crown, and laid  
 “ them open to a new Grant. The State of the Country in Dis-  
 “ pute, is a material State Reason, why the Crown ought to inter-  
 “ pose in the present Case, and put a Stop to this growing Mischiefe;  
 “ but I doubt this Business cannot be adjusted very soon, because  
 “ Mr. Penn must apply to the Crown for Relief; which Method  
 “ of Proceeding, will necessarily take up Time, as the Province  
 “ of Connecticut must have Notice, and be heard.

“ March 7, 1761.

C. PRATT.”

Now, if so great a Personage hath given an Opinion, that  
 appears to be wholly against the Opinion, that the Bounds of the  
 Colony at this Day extends Westward to the South-Sea; ought we  
 not to think that it is probable, that the Court of Great Britain, will  
 determine in like Manner, upon that Question, and urge against  
 us as an irremovable Estopple, our own Consent and Agreement?  
 Have we not Reason to fear, that they will also determine, that  
 we have wilfully undertaken to do that, which we had no Right to  
 do? And what may be the Consequence of it, I will not undertake  
 to say; but from the present State of Things, it seems to me we  
 have Reason to fear the Worst. Again, I would ask, Why should  
 the Colony run such Risks merely to gratify those Gentlemen, who  
 call

call themselves "The Susquehanna Company?" What have these Gentlemen merited at the Hands of Government, more than the rest of the Subjects of the Government?—I am willing to allow them to be as deserving as the other Subjects, but no more; to be sure not so deserving, as any Ways to enthrall or expose others for the Sake of gratifying any ambitious or lucrative Views of those or any of those Men. Have the Government ever encouraged their Undertaking, so as to lay themselves under any Obligation to do more for them than for the other Inhabitants of the Colony? For my Part I know of none. Indeed, the Remarker hath artfully insinuated, that the General Assembly, in the Year 1755, did approve of their Purchase of the Indians. This is another Fact that I take not to be fairly represented; without saying nothing about it, is approving of it. I suppose for the Assembly, as an Assembly, to approve or disapprove of any Transaction, that they must make an Act specially for that Purpose; the Opinion of some few Members, will not be sufficient to shew, that the Assembly did approve or disapprove of the Purchase; much less can an Approbation of it be fairly argued from the Silence of the Assembly about it, i. e. if they did not say any Thing concerning the Purchase, because it is probable, that they might not at that Time think it to be in any wise within the Chain of the Colony; but far distant from, and beyond any Pretence of Claim the Colony had: And this seems very probable to be the Case, otherwise the Assembly would not have recommended them to the Crown, to grant them the Lands, and incorporate them into a Government by themselves; this I understand the Assembly did. Now in what Sort of Light will the Government appear in the Eyes of the King and his Counsellors, if they should undertake to make Conveyance of those Lands, after they have so far disclaimed any Interest in them to the Crown, as to desire the King to make a Grant of it to these Men; and which he hath refused to do? It appears to me, that at least in such Case, the Government would appear in a mean and contemptible, if not in a worse Light. Therefore, I can't, nor can any other, I think, reasonably suppose, that the Government hath laid themselves under any the least Obligation to convey to those Gentlemen more than to any other Inhabitants of the Colony; therefore not reasonably, that the Government should run any Risk in the Matter. But suppose, not grant, that the Colony's Right to these Lands was indisputable; even in that Case, why ought not those Lands to be dealt with in the same Manner as the seven Townships of Canaan, Salisbury, &c. were, viz. sold at Public Vendue, to the highest Bidder, and the Avails of them brought into the Colony Treasury; so that the Colony should have the Benefit of them? It seems to me this would be more equitable than to make an Estate to those Men, to the Prejudice of the rest of the Colony; but seeing the Colony's Title is disputed, and very doubtful, I think the Conclusion is strong, that it is prudent and safe for the Government to do nothing about it.

Again,

Again, perhaps it may be enquired, if this be the Case, and the Title of the Colony so disputable, and so much Danger will attend the Colony's Undertaking, to make Conveyance of those Lands, why is it that the Gentlemen of the Honourable Upper House, so freely grants the Prayer of the Memorial of these Men, praying for a Conveyance of these Lands, to be made to them? The Answer to this Question is pretty easy. I have been informed, and in such a Manner, that I have no Reason to doubt the Truth of it, that in Fact the major Part of the present Members of that Honourable Upper House, are Members of that Company, or those Companies that call themselves "the Susquehannah and Delaware Company;" which are so far the same, as that they both of them are endeavouring to make themselves Owners of the Lands West of the Province of New-York. This Information I received from one that is a Member of that Company, and a Member of that Honourable House. Now, I would by no Means suggest any Thing that would tend to call in Question, or impeach the Honesty, Uprightness, or Integrity of that Honourable Board, or any of the Members of it; but will allow, with Reverence, those Gentlemen, to be possessed of all those Qualities, in as great a Degree as is expectable in this imperfect State: yet we may not suppose them to be free from the Imperfections that attend Human Nature, since the Fall. Therefore we must consider them, as well as others, to come within that approved Rule, viz. *That no Man ought to be a Judge in his own Case*: Every one will allow the Justice and Righteousness of that Rule, that considers that Human Nature is not more incident to any one Thing than it is to *Prejudice*; and we must own, that nothing steals upon us more insensible, and takes us more at unawares, especially where our Pleasure or our Interest is at Stake: Now, upon Supposition, that the major Part of the Members of that Honourable House, are Members also of those Companies, it is not to be wondered at, that it should be more facile and easy to obtain a Grant of the Prayer of the Memorial in the Upper, than in the Lower House.

Moreover, if it be true, that it is against Law and Reason, for a Man to be a Judge in his own Cause, will it not admit of a Question, whether under the present Circumstances of our Upper House, a Conveyance of those Lands to the Susquehannah, or Delaware Company, can legally be made by Act of the General Assembly; because one House are too deeply interested in the Case: Certain it is, that the Judgment of the Lower House in this Case, is most to be relied upon, because they are not interested in the Case.

But to conclude. If this Case be, as is supposed, and shewn in the foregoing Observations, will it not follow, that those Gentlemen that are so urgent to have the Government undertake to make a Conveyance of those Lands West of the Line agreed upon, as aforementioned, in 1664, are really unfriendly, not to say inimical

inimical both to the Adventurers and to the Colony? With Respect to the Adventurers, if they should be persuaded, as doubtless many will be, to pluck up Stakes, as we proverbially say, that is, part with their Interests here, and move away, in order to enlarge their Estates there, and should be ultimately defeated; it will to those that are the least Sufferers, be a great Loss, and to such as part with their whole Interests here, an irreparable Injury. Can those Men that urge others to run such desperate Risks and Hazards, be thought friendly to them? Whatever they may think themselves to be, they are really, and in Fact, their greatest Enemies; for they persuade them to part with a real for only an imaginary Interest, which cannot consist with any just Idea of Friendship.

And with Respect to the Colony, it appears to me, that their Unfriendliness appears in a most glaring Light; for now they urge the Government to make a Conveyance of Land, that the Colony (if ever they had a Right to) have parted with by their own Agreement more than an Hundred Years ago: And all Parties have quietly submitted to, and rested in them. It looks difficult to believe, that these Men can be sincere, when they profess to believe, that notwithstanding all the Agreements the Government hath entered into, respecting the Western Extent of the Colony, by which they own the Jurisdiction is parted with; yet that we still hold the Fee and Property of the Land; when they must know that the great, if not the sole Reason of instituting of Commissioners, both on the Part of the Crown and the Colony, was to settle and fix the Bounds of the Patents, by which the Fee and Property of the Land was claimed: For on the one Hand, the Colony Charter was expressed to extend West to the South-Sea; on the other Hand, the Duke of York's Patent bounded East on Connecticut River: Here appeared to be a Clashing of Rights, and Commissioners were appointed on both Sides, to settle this Controversy, and agree upon Bounds and Limits; which was done as before-mentioned. Now, can these Gentlemen, who profess themselves to be Lawyers, sincerely believe, that when indifferent Judges come to determine on the Cause, that they will judge the Fee and Property of those Lands to be still in the Colony, when they must know, that it is an established Principle of the Law, that the Act and Deed of every one shall be construed most strongly against themselves, except the King's Grant; and also that every one shall be bound by their own Agreement. Now, it is not to be doubted, but that the Government have agreed, that the Western Bounds of the Colony shall be the Line mentioned in such Agreement: And for that Reason it looks to me pretty clear, that the Western Bounds of the Colony will always be adjudged to extend no farther West, than are mentioned and expressed in the Agreements the Government hath entered into.

Upon

Upon the Whole, it appears to me, if we view the Case in every Light, it ought to be viewed in ; considering the great Doubt of the Colony's Title to those Lands, or rather the grand Probability, that they have no Title to them; the certain expensive Controversy that will ensue on the Government's making a Conveyance of those Lands, and the necessary Expence that will arise in protecting and defending the Inhabitants of them Lands, and the real Disadvantage even to the Susquehannah Company themselves ; that it is most prudent and most safe, for the Government at present to do nothing about them. ——— All which is submitted to better Judgments,

By the PUBLICK's

Humble Servant, \* \* \* \* \*

















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