

THE MARYLAND REPUBLICAN.

"FREEDOM IS THE BRILLIANT GIFT OF HEAVEN;—'TIS REASON'S SELF,—THE KIN OF DEITY."

Vol. I.]

ANNAPOLIS, SATURDAY, SEPTEMBER 23, 1809.

[No. 14.]

PRINTED AND PUBLISHED BY
JOHN WEST BUTLER,
OPPOSITE THE CHURCH,
ANNAPOLIS.

CONDITIONS OF THE MARYLAND REPUBLICAN.

THE MARYLAND REPUBLICAN is published twice a week during the annual sessions of Assembly, and once a week during the remainder of the year. Its regular day of weekly publication is Saturday, and, during the Session of Assembly, Tuesday and Saturday.

The terms are three dollars per annum; the first year payable six months from the date of subscription—to continue half yearly in advance. The Editor confidently trusts that Subscribers will be particularly attentive to PUNCTUALITY in their payments, as that can alone enable him to meet those necessary and unavoidable expenses naturally resulting from such an establishment.

All communications (post-paid) from literary gentlemen, will be thankfully received; and, if admissible, shall receive immediate attention.

For the Maryland Republican.

TO THE PEOPLE OF MARYLAND.

No. V.

SUPPOSING, for the sake of argument, that there should be 48 federal members in the House of Delegates at the next session, so as to make a majority of the whole Legislature; what would then be their sentiments? Should we then be told that the choice of a Senator was to be, like other legislative acts, the concurrent act of the two branches?

Every person must be sensible that the former mode of election would be resorted to, with some ingenious and plausible pretext for the change in their opinions, which would be no hard task to the leaders, considering the tractability of their followers.

It will be remembered, that the great change in your political sentiments was manifested in the year 1800; not by a majority of five or six, like that in which the members recently chosen exulted at the last session; but by a radical change in several of the counties, which gave a decided majority in the House of Delegates.

But with this pure emanation of patriotism, we had the alloy of the federal Senate, who, although "remotely elected," enjoyed the privilege of expressing their sentiments, and giving their votes, until their times of service expired, by which means a federal council was, for the last time, elected by the assembly.

It may be said, that this arose from the express direction of the Constitution, which does not extend to the present case; but it will at least furnish an answer to the frequent allusions made to the manner in which the Senate is formed; and ought to convince the federalists of the reasonableness and propriety of giving equal weight to every individual vote where appointments are to be made by the legislative body.

If the republicans should gain the ascendancy in the House of Delegates, which accident, more than design, deprived them of at the last election, the appointment of a Senator will be made in the usual manner.

If the federalists should retain only their present advantage, it is to be presumed, that the same disregard to the interests of their own state and of the United States, which was manifested by them in the Summer session, will again take place, and that no election of a Senator will be made; and if they should obtain a majority of the whole Legislature, the Senate would have it in their power, if they thought proper so to act, to retort on them their own arguments, and by insisting on a concurrent vote, an election might again be prevented.

Such might be the effects of the system of conduct which the federal majority resorted to at the last session; a system flowing from party violence, and fraught with absurdity; a system which set at defiance, every principle of patriotism, public virtue and common sense.

Of the third alternative, the obtaining a majority of the whole Legislature, there is not the smallest ground for apprehension; and it has been mentioned only as a possible case.

That the federalists should retain their present advantage (considering how it was acquired, and the arts which are used to preserve it) is not impossible, and is to be prevented only by the united exertions of the republicans.

But an attempt is made to throw the responsibility on the Senate, on account of their rejection of the conference proposed by the other House, although it was in reality, a measure so little calculated to attain the desired end, that there is reason to believe it was offered with a firm persuasion that it would be refused, and with a view of diverting the public attention from the true cause of the failure of the election.

On the day preceding, a resolution was read in the House of Delegates, for the appointment of a Senator, leaving a blank which was afterwards filled up with the name of John E. Howard, which, it might easily have been foreseen, would not be assented to by the Senate.

The precise object of the conference was not stated in the message from the House of Delegates, altho' it was to be inferred from the preceding part, that it was to agree on a mode of making the election.

To this the Senate very properly replied, that they conceived the mode sufficiently established by the uniform practice; and also, that they knew of no disagreement between the two branches on which a committee of conference should be called to act.

Every person conversant in parliamentary proceedings, must have observed, that a conference is only resorted to after a disagreement which cannot be adjusted by messages, or in any other manner. No disagreement has occurred on this subject, but it seems it was "foreseen by the House, that a disagreement would arise as to the person contemplated for Senator." This degree of foresight will not appear very surprising, when we reflect that the subject was to be regulated by a federal majority, who were determined to depart from the former unvaried practice, and to propose a mode of choice which no republican could possibly consent to. But, an anxiety was expressed by them, that this "disagreement" as to the person, "might be eventually adjusted in a spirit of mutual accommodation." How was this to be effected? How were the views of parties so entirely opposite, to be made to coincide? The first step must have been the rejection by the republicans of the man of their choice, and also a rejection by the federalists of the candidate whom they had just before, unnecessarily brought into view, notwithstanding the high estimation in which they professed to hold him.

It is artfully insinuated in the message to the Senate, that the two branches might have united in a plan of reasonable concession on both sides, and have selected some character, in whose appointment both Houses might concur, without any violent sacrifice of duty or opinion.

The Senate were not to be deceived by this smooth language. It was too much in contrast with the bitter and rancorous aspersions which had been made use of during the preceding session, and the subject was of a nature on which it was idle to expect any concession that would have been reasonable in the eyes of both parties.

And who was the person—or what the character to be selected? Was the mutual accommodation to be like splitting the difference in a bargain, and to result in the election of a quid, who would be of both sides, or of neither?

Should it even be admitted that the House of Delegates would have assented to the choice of a republican

Senator, the members of the other branch would have departed from their duty if they had given up their own sentiments by a compromise of this nature; and the republican whom the federalists might thus have forced upon us, would not have been much mended in our estimation, by the hands through which he must have passed.

But to this mode of electing by previous conference, there are insuperable objections.

We have heard much complaining about caucuses since they have ceased to be useful to the federal party; but they now propose to us one of a new kind—Legislative caucuses—a committee who are to be brokers for the Assembly, and to have the power of bargaining and trafficking away the sacred right and duty of fixing one of the most important stations in our government.

They say to the Senate—Your members shall vote as they have always hitherto done in such cases—provided, they will first bind themselves to vote for the person whom we approve, or in whose favour both Houses may come to a previous accommodation or bargain. According to the system of Trinculo, in the Tempest, they will let the Senators be kings, but they will be viceroys over them.

They give them a *congé d'Elire*; but like the king of England, who thus sends his license to proceed to the election of a Bishop, they will name the person to be elected. The learned Dr. Johnson compares this license to the throwing a man out of a garret window, and giving him leave to avoid breaking his neck if he can—such is the specious pretext under which the federal majority hope to shelter themselves from the just indignation of their constituents.

Although the conference, if acceded to, would probably have terminated by a mutual rejection of any proposals that might have been made, the Senate were certainly right in discouraging the first attempt at so strange an innovation on legislative proceedings.

They will stand justified on the grounds of precedent, reason and duty, which the efforts of party-spirit and sophistry will be unable to destroy; while, for the want of a Senator to represent this state in Congress, you will have to look to the federal members of the House of Delegates, "the recent depositaries," as they style themselves, "of the public confidence."

Your only consolation is, that your confidence may be as easily withdrawn as it was incautiously bestowed.

—NO. VI.—

THE CHURCH BILL.

Those who live in the uninterrupted enjoyment of liberty, are apt to undervalue its blessings.—It is only when exposed to danger, or menaced by opposition, that its worth is estimated truly.

The uncommon freedom from religious oppression which you have experienced since the American revolution, may have rendered you unmindful of the past, and have prevented your apprehension for the future.

The Church Bill, or the act to incorporate the Convention of the Protestant Episcopal Church in Maryland, as passed by the House of Delegates, at the last fall session, is of a nature to call your attention to the subject in both its aspects.

The situation of Maryland, when a colony, as to its religious establishments, is remembered by many, and is, or may be known, to all. It was not surprising that, although the first settlers left their country to avoid the inconveniences of religious intolerance, yet that as they still were British subjects, and the Proprietor was empowered to erect and found places of worship according to the Ecclesiastical Laws of England, the Protestant Religion should have been made the established religion of the province.

This was effected, after several temporary provisions on the same subject, by the act of 1692, which, as Bacon observes in his note, laid the first foundation for its establishment.

Another act was passed in 1702, by which a tax of forty pounds of Tobacco per poll was levied on every taxable person of whatever denomination or religious persuasion he might be.

It was conceded as a favor to the Protestant dissenters that they should enjoy all the exemptions granted to them in England under a statute of William and Mary, commonly called the Toleration Act. But, under that statute, no dissenters could hold their religious assemblies with the doors locked, barred, or bolted; and no congregation could be allowed until the place of meeting was certified to the Bishop or Arch Deacon, or to the quarter sessions.—The act of Assembly provided that this should be done at the county courts.

The forty per poll appears to have been reduced to thirty in the year 1763, and it is known that from that period till the revolution, the greatest heats and animosities were occasioned by this unequal and oppressive tax.—It is a fact well known, that through the favouritism of government, men were imported for the ministry, many of whom were totally unfit to perform its duties, and were persons of the most profligate lives and conversations.

The certainty and independence of their establishments tended to make them neglectful in their functions, and they were as little serviceable to their own parishioners, as to the inhabitants who belonged to other sects, and who were obliged to pay them without the desire, or perhaps the right, to visit their churches.

Their steady opposition to our revolution, and in many instances, their turbulent and seditious conduct at that time, are not erased from our memories.

Even the Right Reverend Prelate, whose patriotism is extolled by a *Layman* in the Maryland Gazette, may remember some of these things; or, if he should not, the people of Calvert county, where he resided, can remind him of them.

With these scenes before their eyes, it would have been strange indeed if the framers of our Declaration of rights and form of Government had not attended to our religious, as well as to our civil liberty.

The declaration of rights, as first reported, provided, among other things, that no person ought to be compelled to frequent, or maintain, or contribute, unless on contract to maintain, any place of worship or ministry.

This was afterwards altered, so as to make it any particular place, or particular ministry;—and the Legislature were impowered, in their discretion, to lay a general and equal tax, for the support of the christian religion, leaving to each individual the power of appointing the payment to the support of any particular place of worship, or minister, or for the benefit of the poor.

The Legislature have never yet thought it proper to lay this tax, although an attempt was made towards it in the session of 1785, which was negated by two thirds of the House of Delegates, against the most strenuous efforts of its friends and supporters.

No injustice, however, was done to the former established Church by the protection which the Convention then gave to religious liberty.—It was provided that the churches, chapels, glebes and all other property then belonging to the church of England, should so remain forever, and other regulations were made concerning the building or repairing churches or chapels of ease.

The succeeding section is important in its provisions, and it will be proper to test it by the Church Bill with which we have been threatened.

It declares "that every gift, sale, or devise of lands to any minister, public teacher, or preacher of the gospel, as such, or to any religious sect, order, or denomination, or to, or for the support, use, or benefit of, or in trust for any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination; and every gift or sale of goods or chattels, to go in succession, or to take place after the death of the seller or donor, or for such support, use, or benefit; and also every devise of goods or chattels

for the support, use, or benefit of any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination, without the leave of the Legislature, shall be void.—Except always, any sale, gift, lease or devise, of any quantity of land, not exceeding two acres, for a church, meeting, or other house of worship, and for a burying ground, which shall be improved, enjoyed, or used, only for such purpose; or such sale, gift, lease, or devise—shall be void."

This article in the bill of rights was probably suggested by a consideration of the statutes of *Mortmain* which were recognized by some of the earliest conditions of plantation declared by the Proprietor.

Alienations in *Mortmain*, although they include such as are made to any corporation, are principally considered as applicable to religious houses. The observations of Blackstone on this subject, are suited to the present times, and will serve to point out our future course. "In deducing the history of which statutes, (he remarks) it will be matter of curiosity to observe the great address and contrivance of the ecclesiasties, in eluding, from time to time, the laws in being; and the zeal with which successive parliaments have pursued them through all their finesses. How new remedies were still the parents of new evasions, till the Legislature at last, though with difficulty, hath obtained a decisive victory."

The same writer, speaking, in another part of his commentaries, of the spiritual encroachments of the Pope on the civil authority of England, and his prelates, who being bred abroad in the doctrine and practice of slavery, had contracted a reverence and regard for it, and took a pleasure in rivetting the chains of a free-born people, observes that, "though the being spiritual head of the church, was a thing of great sound, and of greater authority, among men of conscience and piety, yet the court of Rome was fully apprised that among the bulk of mankind power cannot be maintained without property; and therefore its attention began very early to be rivetted upon every method that promised pecuniary advantage."

Again, "another engine got on foot, or at least improved, by the court of Rome, was a master piece of papal policy:—not content with the ample provision of tithes, which the law of the land had given to the parochial clergy, they endeavoured to grasp at the land; and inheritance of the Kingdom! and, had not the legislature withstood them, they would by this time have probably been masters of every foot of ground in the Kingdom!"

With a knowledge of the history of past times, and a recent experience of Church tyranny as to themselves, the inhabitants of Maryland, in regulating their internal government, thought it of the highest moment to seclude from the power which an undue portion of riches would confer, and wisely imposed on the several religious sects the restrictions which have been recited from the bill of rights.

Yet, you are told, in the address of the delegates from Frederick county, that in most of the acts of assembly, it has been rather a matter of form to limit the amount of property which the congregation may hold, and that the limit has been fixed by chance or whim.

I should hope that no such principles of legislation are admitted, even on the most trifling subjects; but, that a limitation made expressly in pursuance of the Declaration of Rights, should be considered merely as a matter of form, is a serious cause for alarm. We find, however, that the persevering applicants for the Church Bill, were not willing to be shackled with even the form of a limitation.

By the first section, the corporation of the Protestant Episcopal Church in Maryland are made "able and capable in law to have, purchase, receive, possess, and enjoy, to them and their successors, lands, tenements, rents, annuities, pensions, and other hereditaments, in fee simple or for a