

MARYLAND GAZETTE.

T H U R S D A Y, JUNE 23, 1774.

22

From Thomas's Boston journal, June 2, 1774.

AN APOLOGY for the late CONDUCT of AMERICA.

HERE are those who are clearly of opinion, that the commons of Great-Britain have no right to give and grant away the property of the Americans.

If such people are consistent in their notions, they must allow that the Americans would be justified in refusing to make good such gifts, and to comply with the requisitions in such grants.

And if they would be justified in refusing to comply with such requisitions, it must also be allowed that there is a line of conduct which it would be proper for them to pursue, and that they are not left altogether without a remedy.

They that are most violent against the Americans for their conduct in the affair of the tea, would do well if they endeavoured, before they passed judgment upon it, to obtain proper ideas of right and wrong, and qualified themselves to distinguish what is unlawful from what is expedient only; otherwise they may be led to condemn, as criminal, measures that were ill-judged only; and by the false colourings of jesuitical writers, may be induced to believe actions to be unjustifiable and wrong, that were only impolitic and foolish.

I think the affair of the tea is, in general, rather ill understood; and that the constitution of England, the fundamental law of property, and the unalienable rights of human nature seem to have been but little regarded in this dispute, concerning American taxation.

That the constitution of England has been but little regarded, must appear evident, when it is considered what the spirit of that constitution is with respect to the idea of taxation. Does the legislature levy a tax upon the kingdom in the same manner, and with the same pretensions as the king of France, by his edict, imposes taxes upon his subjects?—certainly not: the commons give and grant for themselves and their constituents; the lords answer for themselves; and the king, by his assent and acceptance of such gifts, binds the parties to fulfil the contract, and gives the deed the sanction of the law. But say the advocates for American slavery, taxation is a necessary part of legislation, forgetting, or rather infamously misrepresenting the truth, which is, that our constitution knows of no arbitrary legislative money bills, nor acknowledges any other source of taxation but free gift. Can any man, then, have a right to give away another man's property?—certainly not. And the commons of Great-Britain may give and grant away as much as they please of their own property, but they have no right to give and grant away the property of the Americans.

So much touching the constitutional part of this dispute, which I should have thought too obvious to have required any discussion, had there not appeared to have been much pains taken to confound the two very distinct ideas of legislation and taxation, and to persuade mankind that legislation, which is essential to all government, is nugatory without that power, which is incompatible with the very end of government itself, an arbitrary and unlimited power of taxation; for the end of government is the preservation of property, and there can be no property where there is an arbitrary power of taxation; for what property can any man have in that which another can, by right, take from him when he pleases, against his consent?

And that the fundamental law of property has been but little attended to in this dispute, the application of the foregoing observation will sufficiently demonstrate; for what security can the Americans be said to have in their property, if the people of Great-Britain can give and grant it away when they please? or rather, can they truly be said to have any property at all, if the people of Great-Britain have, under this pretended right of taxation, a power of taking from them, when they please, what they possess, and of using and disposing of it afterwards in what manner they think proper?

But how are the rights of human nature violated in this dispute? to this I answer, that the law of nature, being founded in reason and justice, admits of property; for the better preservation of which, and for the use and enjoyment of it in peace and quiet, men entered into society. If, therefore, any man, or body of men, claim a right to take away at pleasure from other men their property; and to dispose of it as they please, such claim tends to a dissolution of society, and is repugnant also to the law of nature, as it would place mankind in a worse condition than the state of nature, wherein they had liberty to defend their right against the injuries of others.

Unfortunately also for these flaming advocates for the high prerogative, doctrine of a necessary and unlimited right of taxation in the British legislature, and who assert that the power of legislation in the regulation of commerce, without that of unbounded taxation also, would be nugatory and futile, I must mention the cases of Scotland before the union, and Ireland. If the British legislature must necessarily be possessed of that power, with respect to America, why was it not necessary with respect to Scotland before the union? and why is it not, at this moment, necessary with respect to Ireland? If the machine of government cannot move on without this power over the poor dispersed, divided,

and defenceless Americans, how could it so long have moved on without the same power over the rebellious Scots, or the discontented and fickle Irish?

I could mention also the charters of the Americans, which would be entirely subverted by this right of taxation; but those who, in their utmost pursuits, scruple not to violate the constitution and policy of Great-Britain, the fundamental law of property, and the rights of human nature, will pay, I am afraid, but very little regard to chartered rights.

But what line of conduct is to be observed by that people whose liberties and property are invaded? in answer to this question, I shall beg leave to subjoin a few short extracts from Locke: "tyranny is the exercise of power without right. Wherever the power that is put in any hands for the government of a people, and the preservation of their properties, is applied to other ends, and made use of to impoverish, subvert, or harass, them to the arbitrary and irregular commands of them that have it, there it presently becomes tyranny, whether those that thus use it are one or many. Where law ends, tyranny begins. The exceeding the bounds of authority is no more a right in a great man, a petty officer, no more justifiable in a king than a constable, but is so much the worse in him, that he has more trust put in him. May the commands, then, of a prince be opposed? to this I answer, that force is to be opposed to nothing but unjust and unlawful force. Where the injured party may be relieved, and his damages repaired by appeal to the law, there can be no pretence for force, which is only to be used where a man is intercepted from appealing to the law; for nothing is to be accounted hostile force but where it leaves not the remedy of such an appeal; and it is such force alone that puts him that uses it into a state of war, and makes it lawful to resist him. Men can never be secure from tyranny, if there be no means to escape it, till they are perfectly under it; and therefore it is that they have not only a right to get out of it, but to prevent it."

Bearing these axioms of eternal truth in our minds, let us now take a slight view of the controversy between Great-Britain and America.

The three estates of Great-Britain claiming a supreme legislative power over Great-Britain and its dependencies, the commons of Great-Britain claim an absolute and unlimited right of giving and granting away the property of the Americans.

America admits the supreme legislative power of Great-Britain as extending to the regulation of commerce, &c. &c. but denies the inference drawn from it, the right of taxation, alleging that such a right is not only contrary to the constitution of Great-Britain, and the venerable charters of America, but that it cannot, in the very nature of things, exist; because if it did exist, it would be impossible for an American to possess any property.

The commons of Great-Britain, proceeding to carry their claim into execution, give and grant away a tax upon all teas that shall be imported into America, to be collected in their very ports at or before the landing thereof, and the executive appoints his tax-gatherers to collect the same.

The Americans petition and remonstrate against the measure, as looking upon it to be a violation of their rights, and a total annihilation of their property, but obtaining no redress, rather than submit to so humiliating a measure, the whole continent resolves to import no more tea, nobly choosing rather to have one natural right violently taken from them, than to become themselves the instruments of surrendering up the whole.

Great-Britain, not satisfied with letting things remain in this situation, the East-India company are instigated to attempt, in open violation of the charters of the Americans, in opposition to the general voice of the people, and in defiance of honour and justice, by a hostile importation of their tea, and by a submission to the tax so imposed, to lay the foundation of their liberties and property, and to establish a precedent for future inroads. Dreading the odium of such an action, and knowing the sentiments of the Americans, the company at first hesitate; but being formally and regularly indemnified, they are at length prevailed upon by administration, to become parties in the cause, and to make a direct attack upon the liberties and property of America. A party also in America, either dependent upon, or looking up to government for advancement, or influenced by the mean consideration of the commission to be got by the sale of the tea, are procured, who scruple not to conspire with her external enemies against the freedom of America, and become zealous advocates for taxation and slavery.

When the vessels arrive in America, such are the convulsions into which the whole continent is thrown, that the parties concerned are prevailed on to consent to their immediate return.

In one instance, the governor and officers of the customs interfere; a proper clearance for the vessel is denied; the return of it is prevented; and a day for the landing of the cargo, and the execution of their plan, is fixed upon.

What now ought the Americans to have done? ought they to have tamely submitted to this taxation, and by acknowledging the principle to be just from which it originated, confessed themselves in so humili-

ating a condition, as that the whole of their property, and every convenience of life that commerce could afford them, depended upon, and was held at the pleasure of the people of Great-Britain?

This would have been to have imitated the lamb, who yielded his throat to be torn by the imperious wolf.

Ought they to have submitted first, and then petitioned?

They had repeatedly petitioned, but their cries were not regarded. Ought they to have appealed to the law?

But what appeal can be made to the law, if the unjust acts done against a man are maintained by the power of the aggressors, and the remedy which is due by law be by the same power obstructed?

Ought they, when the tea had been landed, to have taken it from the consignees and locked it up?

But what man could prudently have stood forth in this way, wrested the property from its owners, locked it up, and openly exposed himself to the rage of the blind and infatuated ministry of Great-Britain?

Whatever were the sentiments of the Americans upon this head, or whether in the heat of their resentment they thought at all, is foreign to my purpose; it is sufficient for me to observe, that in the conflict, that commodity, which was to have been instrumental to the introduction of slavery and taxation, was destroyed.

Let us next consider in what light the East-India company ought to have been considered by the Americans: as merchants trading to America under the sanction of the law of nations, or as a banditti hired to attack their privileges, and indemnified against any loss which might be sustained in such attack?

And if the indemnification by them required, places the nature of their act, in so very unfriendly a point of view, shews that they were fully acquainted with the sentiments of the Americans, and considered the measure as dangerous, because unjust, in what light must the indemnifiers, the suborners themselves, appear?

And if the agents in this business appear so black, let us next examine in what light their commodity ought to have been considered—in the same sacred light as the property of the honourable trader, or as the indifferent property of men combined together to subvert the liberties of America?

But neither of these ideas fully expresses its true nature.

Ought it not rather to have been considered as that identical property, that very engine by which the enemies of America meant to subvert its privileges, and by introducing along with it an unlimited and discretionary right of taxation, totally to annihilate American property? certainly property so circumstanced, brought thither with such an intent, and become so maliciously involved in the subject of dispute, had lost those sacred sanctions which are the defence of common property, and may figuratively be said to have changed its very nature, and to have become an instrument of war.

If, then, it appears, that the executive would not suffer it to be taken back, and that the landing of it would, in the opinion of the Americans, have proved as fatal to America as the introduction of the wooden horse of the Grecians did to Troy, though the alternative which they choose may have procured them many enemies, there will, doubtless, be found many others who will pity and excuse.

S I D N E Y.

A bill for the impartial administration of justice in the cases of persons questioned for any acts done by them in the execution of the law, or for the suppression of riots and tumults, in the province of the Massachusetts-Bay, in New-England.

WHEREAS in his majesty's province of Massachusetts-Bay, in New-England, an attempt hath lately been made to throw off the authority of the parliament of Great-Britain over the said province; and an actual and avowed resistance, by open force, to the execution of certain acts of parliament, hath been suffered to take place, uncontrolled and unpunished, in defiance of his majesty's authority, and to the utter subversion of all lawful government:

And whereas, in the present disordered state of the said province, it is of the utmost importance to the general welfare thereof, and to the re-establishment of lawful authority throughout the same, that neither the magistrates acting in support of the laws, nor any of his majesty's subjects aiding and assisting them therein, or in the suppression of riots and tumults, raised in opposition to the execution of the laws and statutes of this realm, should be discouraged from the proper discharge of their duty, by an apprehension, that in case of their being questioned for any acts done therein, they may be liable to be brought to trial for the same, before persons who do not acknowledge the validity of the laws in the execution whereof, or the authority of the magistrate in the support of whom such acts had been done:

In order therefore to remove every such discouragement from the minds of his majesty's subjects, and to induce them upon all proper occasions, to exert themselves in support of the public peace of the province,