

MARYLAND GAZETTE.

THURSDAY, OCTOBER 19, 1786.

To the PUBLIC.

WHEN a man just entering into public employment, finds a set of intriguing politicians waiting for an occasion to decide on his principles, as suited or opposed to their views; when, having on a question of moment exhibited a firmness unfavourable to their designs, he becomes the object of virulent clamour and insidious misrepresentation; and when in spite of every endeavour to establish such an independence and consistency of character as might justify the confidence placed in him, a censure, armed with all the credit and influence of the highest rank and authority, is levelled at his conduct in office; the person so circumstanced, must either betray a mind void of sensibility and careless of reputation, or be supposed to subscribe to the charge, if he passes it unnoticed: to prevent either of these conclusions, I find it necessary to lay open to the public a late transaction, which has placed me in the situation I have described.

The final admission of claims against the state, having on the abolition of the intendant's office, reverted to the executive board, the commissioners for the preservation and sale of confiscated property presented, in the beginning of April last, an account of pay and commission due for their services; which the auditor-general, after several days examination, had adjusted and passed in the following terms:

" Auditor's-office, 29th March, 1786.

" I have carefully examined all the accounts and vouchers of Clement Hollyday, Nathaniel Ramley, and Gabriel Duvall, Esquires, and find that there is a balance due to them of two thousand two hundred and twenty-four pounds eleven shillings and eight-pence farthing, arising due to them as commissioners for the preservation and sale of confiscated property, as per the foregoing account, including the commission of two and an half per cent. on £35,757 15 9 twice charged; the property having been twice sold by them, under the orders of the late intendant and others, as appears by the memorandum herewith produced. But as it is a case which I do not consider myself fully competent to decide upon, I have not passed the account in such explicit terms as is usual with accounts audited in this office. However, I am of opinion, as the commissioners had the trouble of doing the business twice, without any apparent fault or mismanagement in the first instance, that they are entitled to receive both the commissions.

" C. RICHMOND, aud gen."

The cautious manner in which the auditor spoke of the commission on the resale, naturally prompted the board to a deliberate examination of the subject; in the course of which, it was suggested by Mr. J. T. Chafe, that the late intendant had objections to this claim, and having had a considerable part in the transactions of the commissioners, was well qualified to throw light on the question of mismanagement, upon which the merits of the account seemed to depend: he was further represented to be desirous of a hearing on the subject: it was therefore agreed to postpone the decision until a full inquiry should be had. Mr. Duvall, one of the commissioners, and then a member of the council, readily acquiesced in this disposition, requesting only that a day might be fixed for the purpose: repeated appointments were made, which severally fell through, by the absence either of Mr. Jenifer, or of some of the board. The commissioners, weary at length of these delays, pressed the council to take effectual measures for obtaining the proposed inquiry; they received the most positive assurances of a speedy issue to the affair. The 18th of July was appointed, and notice thereof given to Mr. Jenifer. It is here to be observed, that Mr. Duvall having in the interim resigned, Mr. Paca was elected to the vacant seat, who finding this business before the board, declared, that having prejudged the case, he could not, consistently with his idea of delicacy and propriety, sit in judgment on it. He was therefore understood to have positively declined attending the inquiry.

Meeting with Mr. Chafe on the day preceding the proposed discussion, I expressed a desire that he would give his attendance; he told me, that being much engaged in the chancery court, he could not attend. As I really felt, so I will venture an appeal to that gentleman, that I discovered some anxiety to have his assistance on this occasion: the length of time which the affair had been depending, the numerous transactions to be investigated, and other circumstances, had cloathed it with a degree of importance, which rendered me solicitous to have

the assistance of an experienced and able member: Mr. Chafe's long standing at the board, and his professional knowledge, entitled him, with me, to this distinction: I therefore repeated my application, and proposed to send for him, if the council should be unwilling to act without him. He again declared it was not in his power to attend; and from that moment I considered him, as well at Mr. Paca, to have relinquished the examination of the commissioners account to the three remaining members.

Early on the appointed day, the governor, the council, and the parties, appeared. It is said by his excellency, that previous to the discussion, a question was put, whether it should be proceeded to, or delayed until there should be a fuller board: As this fact does not rest on my memory, I presume my manner of raising it will be excused; more especially as I am willing to admit it: certain I am, that neither the governor nor any member desired to have the business postponed. Mr. Jenifer, before he appeared, addressed the board in a letter, the purport of which was, to emit them of a resolution of the general assembly, directing that the accounts of the commissioners should be examined and approved by the intendant, previous to their receiving any further commission for their services; he wished to have the council's idea, whether, in his present capacity, retained the authority vested in him by that resolution. I will be hardy enough to confess, that I found myself disposed to treat this application with the contempt which I thought due to a gross and designing attempt on the understanding of the board. I do not recollect that any answer was proposed; if there had, it must have been in language no the most respectful, to have obtained my concurrence. As I shall have occasion to speak of this resolution in another place, I shall dismiss it for the present; only observing, that at least a tacit negative was given to the question.

Mr. Duvall being told that the board were ready to hear him, addressed them in support of the charge of commission on the resale. Mr. Jenifer, in his reply, went far beyond what was supposed to be the object of the inquiry, and pursued a plan of crimination so extensive, that the board began to find themselves vexed by him with a jurisdiction foreign to the nature of their establishment, and reminded him, that it was not their province to investigate and decide on the characters of their fellow-citizens. As he insisted, however, that his observations all tended to establish the main point, viz. mismanagement in the commissioners, the council lengthened and changed the nature of Mr. Duvall's defence; so that it was not until the fourth day at noon that the examination was closed.

Mr. Jenifer, before he retired, reminded the council of his query respecting the resolution before mentioned; governed by the opinion I have already expressed, I asked him, if he could possibly think the board so inconsiderate as to give their attention four days to the inquiry, without being satisfied that they were authorized to decide on the claim: finding the rest of the board silent, he seemed to think himself answered, and dropped this very characteristic effort.

As it wanted something of the usual time of adjournment, and as Mr. Wright, who had attended the examination under great inconveniences, was anxious to bring the affair to a conclusion, some conversation was held, that seemed to lead to an immediate decision; which colonel Brice observing, declared that he was not perfectly prepared to give his opinion.—In addition to his doubts on the merits of the claim, he was not willing to determine the affair until he had seen the resolution mentioned by Mr. Jenifer.—It was therefore agreed to postpone the decision until the next day, in which colonel Brice's first mentioned difficulty was my only motive for concurring: for the resolution, in whatever terms it might be conceived, was out of the question with me.

I repaired the next morning to the council room, without a doubt on my mind that the matter would be immediately determined, and found colonel Brice and Mr. Wright there; the latter seemed very impatient for the governor's appearance, and at length talked of leaving the place, his family being then on board a vessel ready to cross the bay, and waiting only for him. I begged him to stay a few minutes longer, and went myself in quest of his excellency; not meeting with him, I returned to the council room, and found Mr. Wright's patience exhausted.—Colonel Brice, the senior member, seeing him on the point of quitting the board, asked if he should put the question on the account.—Being thus hemmed in between the indelicacy of determining a matter of consequence without hearing what the gover-

nor might have to offer, and the injustice, on the other hand, of delaying a decision when the parties concerned had every right to demand, I answered, that I wished his excellency to be present at the determination, and should therefore be for deterring it as long as Mr. Wright could be prevailed on to wait, but that I would not consent to his departure without finishing the business.—he again agreed to stay a short time, and at length his excellency appeared. He brought with him the proceedings of the session of 1784, among which was the resolution referred to by Mr. Jenifer, who had by mistake stated it to have been passed at the last session.—The resolution was read, and unanimously determined to have become void on the expiration of the intendant's office, and at the same time the board received a letter from Mr. Jenifer, acquainting them, that he was convinced he could derive no authority in his present capacity from it. The merits of the commissioners account were now earnestly discussed between his excellency and Mr. Wright; and a wide difference was soon discernable in their opinions: The new observations which I dropped in the course of the debate discovered me to be inclined in favour of the account: Colonel Brice at length gave us to understand that he had not yet made up his mind on the subject; on which the governor recommended it to the board to postpone the decision—I thought this proposition a very extraordinary one, and I testified no disposition to come into it: I was still less inclined to it, when I heard colonel Brice declare, that as Mr. Wright and I seemed to be satisfied of the justice of the claim, he thought further delay unnecessary, and did not desire it. He went on the principle that the question must of necessity be determined by the three members who had attended the examination; which being the case, the determination must still have been the same, unless a change could in the interim be effected in our opinions, which, considering the deliberate manner in which the inquiry had been conducted was an event hardly to be expected. The governor, however, persisted so earnestly in his proposal, that to avoid disagreeable altercations, I signified my consent to postpone the decision provided Mr. Wright would engage to return within a few days for the purpose of finishing it: This concession, however, was far from reaching the point, for Mr. Wright declared that his affairs would not possibly permit him to attend before the 12th of the next month. His excellency now expostulated with Mr. Wright, in terms, which however justifiable in general, were deemed by that gentleman, severe and unseasonable, in the circumstances he was then under—to his excellency's pointed remonstrances, Mr. Wright still objected his inability to return to Annapolis within a reasonable time.—seeing then not the chance of a reason for putting off the decision a whole month, and finding no prospect of an accommodation, I no longer thought of acquiescing in a delay injurious to the parties concerned, and for which he could have offered no excuse but an undue submission to the governor's pleasure.

His excellency, at length, put the question, Whether the account should be then decided on? To which Mr. Wright and I replied in the affirmative, and colonel Brice in the negative—this was what I had by no means expected, as he had repeatedly said it was not his desire to have the matter postponed—he did not even then retract this declaration, although Mr. Wright offered yet to postpone the decision, if colonel Brice would express himself really desirous of it—he would not do this, but said, that for want of satisfaction on some points, he must vote against the account, if it was put to its passage. His excellency now asked or withheld the question, unless colonel Brice would explicitly declare for putting it.—Upon which Mr. Wright and I asserted our privilege; called for the question, and passed the account.

His excellency had declared that he should be under the necessity of dissenting to the determination, if the account was passed—his dissent was a few days after produced, and as that part of it which contains his excellency's objections to the account has been given to the public by Mr. Jenifer, it becomes only necessary for me to publish (and save that gentleman the trouble of circulating) the remainder; which is as follows:

" And lastly, Because there were only three members of the council at the board; one of whom declared that he had not made up his opinion on the question, although he said that he did not wish it should be waved on his account: Notwithstanding which, the question was insisted on and carried, although the propriety of waving it for a few days was by me repeatedly and in vain urged. (Signed) W. SMALLWOOD."