

# MARYLAND GAZETTE.

T H U R S D A Y, NOVEMBER 30, 1786.

To GABRIEL DUVAL, Esquire.

S I R,

If you can ever so far beguile mankind, as to receive your assertion for proof of the fact asserted, you will be a dangerous adversary indeed. Nothing will be too absurd, nothing be too base to be charged upon any citizen who presumes to speak with freedom of the conduct of yourself, and those with whom you are connected; but although you have for the purpose of making an attack on me been selected as the most likely of my enemies to gain credit with the public, and have shewn yourself to be as much above all scruples as your most sanguine friends could have wished; yet your last performance betrays a consciousness of apprehension that the attempt to bear down truth and justice, is too much for even your talents for disguise; and that instead of injuring me by straining that credit which you have gained by a smooth external appearance and cautious deportment, rather than by real merit, you have not only failed in the object intended to be accomplished, but have so fully proved what your real character is, that you will never hereafter be able to do harm to any other citizen. To a man of your disposition, this situation must be distressing in the extreme; not less so, than that of the hungry deprived of food or the thirsty of drink.

Your exordium is certainly one of the most finished pieces of composition that ever graced a news-paper, and contains sentiments so very excellent, that it would seem like the effect of envy, were I not to remark upon the most striking of them.

To speak or write truly in private or public manner respecting public transactions has generally been thought, not only allowable, but the right of every free citizen.

According to your refined ideas of propriety, it is ungentlemanly and dishonourable to write a letter to a correspondent upon public transactions; because the press is open.—So that no man who does not incline to enter into a news-paper controversy, has a right to say or write a word on public transactions: This discovery deserves to be remembered by all those who act improperly in public character, as a certain specific against the complaints of such of their countrymen who will not commit themselves to public altercation, wherein they will offend men, who never forgive the injury done to themselves and the public, by an attempt to correct their errors. And of course will have a load of the most foul calumny which provoked malice never fails to bestow.

After stating the transaction to be public, you suggest, that the letter respecting it, was wrote to injure private character and reputation; by which I presume is meant, that as some of the commissioners, at the time of their account being examined, had ceased to hold any public character—that they were to be considered as private men. And any thing said of their transactions when public men was improper after they had become private men; this idea is also new; and if adopted will be an excellent shield to all public defaulters, who resign their employments before an examination of their conduct can be had, and before their accounts, and transactions are even stated for inquiry. And any man who attempts to promote the inquiry, may according to your rule of rights, be justly charged with a wanton attack on private reputation.

Another idea is inculcated which seems to be your favourite. That a writer is severe in proportion to the coarseness of his language, and the violence of his abuse: These are the true stings which you believe penetrate your adversary deeply; and all things got grossly rude are mere glimmers of wit. This impression you have received so strongly, that you suppose it impossible that the stings in your first publication were not felt by me. While I, viewing things according to the mode heretofore established, could not help considering your performance, as extremely offensive to sentiment and decency, without the smallest spice of true wit, or genuine satire; and being conscious of the rectitude and propriety of my conduct, I stated the circumstances which gave rise to the letter complained of, and proved beyond contradiction that the facts mentioned in it were true; and these you have not ventured to deny; but combat only the parts of my letter which may properly be called matters of opinion. Namely the objections to the commissioners accounts. These still remain subjects of discussion. And notwithstanding the perplexity in which you have attempted to involve them, by your last publication, I have no doubt, but a proper examination will shew, that the opinion I have given, that your account was a most extraordinary one, is as just as the fact is true, that

a thin council gave you an order for the amount of it.

The first question between us is, whether the commissioners can legally, or justly claim a commission of two and an half per cent. specie on the first and second sales of property, where resales have been made under the authority of the legislature. The quantum charged is immaterial in the discussion of the question. To decide properly upon the question, two inquiries are necessary; first, what was the intention of the legislature as to the reward for the services of the commissioners?—Second, if any case has happened not foreseen by the legislature; and if so, what is just and right in such case? It is acknowledged by you, that certain duties were enjoined by the legislature to be performed by the commissioners. To sell the property in convenient lots, or parcels,—to receive and pay the money where sales were directed for ready money;—and where on credit to take bonds with good security, and to lodge the bonus in the treasury as soon thereafter as possible.—The legislature gave a reward of two and an half per cent. on the amount of the sales, payable in wheat at seven shillings and six-pence per bushel, or red money at par, (worth about one and an half per cent. specie), on these services being performed. The commissioners under the laws enjoining these duties and stipulating this reward, make sales to a considerable amount, and do not take bonds as enjoined by law. And they also make sales to a considerable amount and take bonds for property purchased by persons who allege they were deceived in their purchases. The legislature directs an officer who superintended the state finances, to inquire into the sales where bonds had not been given, and also into the circumstances of the sales complained of, where bonds had been given. And to set the sales aside under particular circumstances. And that where sales are set aside the commissioners shall resell the property. Property which never has been sold is, by the same legislature, also ordered to be sold by the intendant of finance, and he is allowed one and an half per cent. commission only—resales are ordered by the intendant. Was it the intention of the legislature to give the commissioners two and an half per cent. specie, both on the first and second sales? You maintain the affirmative, and therefore ought to prove it. I called upon you to shew, by what law it was you charged this commission, and stated, that the act for consolidating the funds, &c. and for vesting the intendant with powers to order a resale of Nanticoke manor lands, gave you no commission on the resales. This argument you say scarcely deserves to be considered, and “observe that the two and an half per cent. commission was given by an act passed in January 1782, and is never afterwards mentioned in any act directing a sale of British property, and therefore this argument proves too much, as it would deprive you of commission on the sales in 1783, 1784, and 1785.” It appears to me that the argument which you think does not deserve consideration, would itself prove you had no right to commission, and that your answer to it is by no means satisfactory. Suppose the consequence follows which you allege, will it prove the fallacy of the argument. Your right to any commission depends on the following clause of an act to settle and pay the civil list, &c. passed November session 1781, chap. 29, wherein it is enacted, “That a commission of two and an half per cent. be allowed to the commissioners for the preservation and sale of confiscated British property, on the amount of the sales, in full for their services, and the allowance to their clerk, and all expences, except only the charge of surveying the land and advertising the same for sale, the said commission to be paid in bills of credit, or wheat, as before mentioned, at seven shillings and six-pence per bushel.” All the property on which you can justly charge commission had been ordered to be sold before the session in November 1781, and were ordered by acts of that session, or acts in the course of the year 1782. If any property was ever sold except such as above specified, or the property resold, which is the subject of the present dispute, point it out. As to all property ordered to be sold antecedent to the act of November session 1781, and which had not been then sold, and such as was directed to be sold by laws passed in 1782, it may be fairly supposed the legislature intended you should draw the commission mentioned, payable as directed by the act of November session 1781; but can it, with equal propriety, be supposed, that the legislature had the same intention when the acts of November session 1784 were passed? And that they did not mention any commission on the resales in virtue of these acts, because they knew you had an established

right to a commission by a temporary law in 1781. But as the law is silent as to commission to the commissioners upon the resales, all that you can rest your claim on, is, the presumption arising from the legislature having directed a particular service to be done, that they of course intended a reward for this service.—Suppose the presumption could be fairly made from the circumstances of this case; that a reward was in equity due—why fix it at two and an half per cent. specie? This was not agreeable to the ideas of the legislature who passed the law, even in cases where the property was to be sold which never had been before exposed to sale. For they allowed the intendant but one and an half per cent. on sales made by him. And surely if you paved the way for him as to property which never had been sold, you had made it equally smooth for yourselves as to property which you had once prepared for sale. The trouble to the intendant must have been equal to that of the commissioners, and the benefits arising to the state as great. Now suppose any commission intended to be given to the commissioners on the resale, what could have justified the legislature as public trustees in giving two and an half per cent. when they could have got it as well done at one and an half. Would the circumstance of there being two commissioners have justified wantonly throwing away one per cent. on all property to be resold? Certainly not. No idea of justice upon your principles could have induced the legislature to give you the resales; because if you were to charge commission on all sales before by you made, whether you resold or not. The engagement between the state and you as to this, was at an end; and the legislature had a right to get any body else to finish the business upon the best terms. It was not the wish of the legislature, you should resell the property. It was your own request that you should have the opportunity of securing a commission by the resales, and having done this, you very conscientiously set up a claim, not only to what you prayed for, and what was granted to prevent the smallest imputation on legislative generosity; but also to a sum which was not at the time in your idea to ask, or of any member of the general assembly to give.

The circumstances really attending the passage of the act for consolidating the funds, &c. prove beyond doubt, that double commission was never intended to be given by the legislature, or thought of by the commissioners when that act passed.

In my former publication I stated the substance of your and Mr Hollyday's memorials from memory; I have lately obtained copies of them, and that there may hereafter be no difference between us as to their contents, I take the liberty of inserting them at length.

To the honourable the General Assembly of Maryland.

The remonstrance of Gabriel Duvall of the city of Annapolis, humbly sheweth,

That the report of the committee of supply contains a resolution which is already passed by the house of delegates directing a second sale of that part of confiscated property which has been sold by the commissioners, and for which bonds have not been taken, whereby the commissioners will lose the commission arising on those sales. This resolve is fraught with such injustice and inequity to your remonstrant, that he is persuaded, that it will not have an advocate in either branch of the legislature when his conduct is fully stated and clearly understood by the members of the general assembly.

In the month of July, in the year 1781, he had the honour, without solicitation on his part, to be appointed one of the commissioners for the preservation and sale of confiscated British property, in consequence of which appointment he qualified in the manner directed by law, and entered upon the function of the duties of his office.

That the commissioners continued to dispose of the confiscated property for a per diem allowance until the 22d day of January, 1782, when an act was passed giving them a commission of two and an half per cent. they to pay all expences, surveyors fees and charges of advertisements excepted; under which law they have disposed of property to a very considerable amount, of which there yet remains about £. 108,000 for which bonds have not been taken; some of the purchasers peremptorily refusing to bond, and others absenting themselves immediately after purchasing, and thereby precluding the commissioners from the opportunity of taking them.

Your remonstrant begs leave to observe, that by the several acts of assembly under which the commissioners have acted, they have been vested