

# MARYLAND GAZETTE.

T H U R S D A Y, F E B R U A R Y 15, 1787.

To the CITIZENS of MARYLAND.

I HAVE read with a good deal of concern the message of the senate on the proposition from the house of delegates to adjourn to the 20th of March, and I think it is indelicate with respect to the delegates, injurious with respect to the people, and repugnant in its principles to our bill of rights, constitution and government.

The advocates for liberty and the rights of mankind maintain, that all rightful government originates from the people, is founded in compact only, and introduced and established for the welfare and happiness of the whole. The government of this state stands upon that foundation, and the bill of rights expressly recognises it.

Declaration of rights, sect. 1. "That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole."

As the people then of this state were the founders of our constitution and government, and their object and design was their general welfare and happiness, the powers and authorities, which they communicated and transferred, must be limited and bounded by such object and design; and the persons exercising such powers and authorities must be the trustees of the people, and as such accountable for their conduct, and this principle too the bill of rights expressly recognises.

Sect. 4 "That all persons invested with the legislative or executive powers of government are the TRUSTEES of the public, and as such ACCOUNTABLE for their conduct; wherefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought, to reform the old or establish a new government; the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind."

Both branches, then, of the general assembly being the trustees of the public, a very important question arises, who are to judge whether they execute the charge and trust thus committed to them with fidelity and according to compact, and the object and design of it? It is evident such a power to judge must exist *some where*; because, "when the ends of government are perverted, and public liberty endangered, the people may, and of right ought, to reform the old or establish a new government." And indeed all limitations and bounds set to public authority would be mere mockery, unless a power was established some where to judge whether such limitations and bounds are kept and observed.

To the question stated I answer, the people are the judges; for "who ought to be the judge whether the trustee or deputy acts well and according to the trust reposed in him, but he who deposes him, an elector, by having deposed him, have still a power to disjoin him when he fails in his trust?"

The advocates for despotism in all countries treat this idea with contempt; What! say they, shall the tinker and cobbler be the judges of kings senators and delegates? Shall the multitude and mob sit in judgment upon the public virtue and honesty of kings, senators and delegates? Shall a rabble—such vile creatures—such contemptible things—whose force of intellect consists in the mere voice of numbers, empty sound, a crack or burst of air—vox et preterea nihil—shall they be the judges whether kings, senators and delegates, execute the public trust as honest men and as honest trustees? And shall they exercise the supreme authority of dismissing such illustrious spirits, whenever they in their judgment shall think them dishonest or public thieves instead of public guardians?—In this strain the flatterers and sycophants of great men have reasoned and wrote against the right of judgment in the people, and against all popular security or barrier of public liberty: among these prostituted characters we find JUDGES, BISHOPS, and LORDS temporal; for, elevation in office, and wealth and titles, and political rank and dignity, have no influence at all in making men good or honest. And so extremely insatiable is power, that men who possess it, cannot discover this flattery or prostitution of character; they form high notions of themselves, grow proud and haughty, and conceive that the Supreme Being have marked them out as favourite spirits, and not only given them a superiority of power over their fellow-citizens, but a superiority also of sense and virtue. They who are invested with legislative powers are most subject to this pride and selfishness; and although thousands of their countrymen have a just knowledge of the principles of government and the rights of mankind, and all are competent judges of their own good and evil, their own

feelings, benefits and sufferings, yet they consider an appeal to the judgment of fellow-citizens as an appeal to the tinker and cobbler, and as a diminution of their power, and a degradation of their consequence, rank and dignity.

But this right of the people to judge whether their trustees execute the trust committed, with fidelity and according to compact, and the object and design of it; and whether they make the good and welfare of the people the rule of their conduct, and the end of their deliberations; and this supreme authority of the people to resume the powers of government whenever they find dangerous designs entertained against their liberties, the public trust violated, and the powers of government abused—has been ever admitted and maintained by every patriot and friend to the rights and welfare of mankind. These principles "Mr. Locke, lord Mansfield and Mr. Frenchard, maintained with their pens; Mr. Hampden and lord John Russell with their blood; and Mr. Algernon Sidney with both."—And in the sentiment and style of a distinguished writer, I will venture to add,—"they are not only the principles of speculative students in their closets, or of great but unfortunate men, whom their zeal and virtue have led to martyrdom for the liberties of their country and welfare of mankind, but they are likewise the real principles of our present actual government,"—the principles of the American revolution, and the principles on which the senators and delegates of this state hold and exercise their power and authority.

But it is objected that this right of judgment and supreme authority can never be exercised but "when the ends of government are perverted, and public liberty endangered;" and the writer of instructions published in the last Annapolis gazette proposes that the people should subscribe the following declaration, viz

"We lastly declare our opinion, that until some fatal periodical crisis arise when the ends of government are perverted and liberty manifestly endangered, the people cannot constitutionally interfere with the deliberations of the senate"

Thus spoke and wrote in a former day a distinguished champion for absolute power; on which doctrine Mr. Locke, the great advocate for the rights and liberties of mankind, thus remarks: "to tell people they may provide for themselves by erecting a new legislature, when by oppression, artifice, or being delivered over to a foreign power, the old is gone, is only to tell them they may expect relief when it is too late, and the evil is past cure. This is in effect no more than to bid them: first be slaves, and then to take care of their liberty; and when chains are on, tell them they may act like freemen. This, if barely so, is rather mockery than relief, and men can never be safe from tyranny, if there be no means to escape until 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."

The right to judge must therefore perpetually exist, and may be exercised on all occasions; but the supreme authority to dissolve the old government and establish a new one, I admit, can only be exercised when redress of grievances cannot be obtained, or designs are entertained or executed endangering or destructive of public liberty and happiness.

But it is objected, that this right of the people to judge of the conduct of their trustees cannot extend to an interference with the deliberations of the general assembly; that the people have no right to instruct both branches and bind them by such instructions.

I would fain know of the senate and their advocates, whether public oppression is not a perversion of the ends of government? And whether the imposition of taxes, for example, in gold and silver beyond the circumstances of the people, and the quantity in circulation, is not public oppression?

As the people are judges of what is public oppression, public injustice, or a perversion of the ends of government; what, I would ask, are the people to do, if exercising their right of judgment, they should be of opinion that the imposition of taxes, to the amount of the public demand, and the exacting them in gold and silver, is a public oppression?

Perhaps I may be told that the people should apply to the general assembly for redress by petition and remonstrance, and that such an interference is perfectly constitutional, as it leaves both branches at liberty to exercise their judgment to reject or grant the application.

But suppose the application rejected. What then? I maintain the people have a right to instruct both branches and demand redress; for they are the constitutional judges of what is public oppression; they are the constitutional judges of what acts of violence or neglect pervert the ends of government; they are the constitutional judges of what ought to be the conduct

of both branches on a representation of grievances and public oppression. And if they are the constitutional judges, their judgment and instructions are final and conclusive.

There is no power, but the people, superior to the legislature; and the legislature are the trustees of the people and accountable to them; and therefore it is that the people only are the constitutional judges of legislative or public oppression—and hence the right of the people to interfere with the deliberations of both branches of the legislature by remonstrances and instructions.—

The senate put the case of instructions requiring what some of the members might think unjust and iniquitous. In the case put, such members in my opinion ought to do one of two things, either execute the instructions, or resign their trust.—

The senate, and the friends of the senate say the people ought not to force upon the senate the bill for an emission of paper money on loan. This is strange language for trustees to use towards their constituents. Is it a force upon the deputy for the principal, apprehensive of injustice or oppression, to instruct his deputy to take measure to prevent it? If the deputy dislikes the instructions of his principal, is it not his duty to execute them or resign? Would it not be extremely impertinent in the deputy to tell his principal, I will neither execute your instructions nor resign? And could it be said that the principal acts with force, if under such circumstances of urgency and perverseness, he insists that his deputy should do one or the other, under the peril of being dismissed? No man can seriously think so.

The address of the house of delegates to the people the senate consider as an appeal; and this appeal, they say, tends to weaken the powers of government, disseminate division and discord, raise convulsions, destroy the checks wisely established by the constitution, subvert liberty, and introduce despotism.—

And what is this address which the senate call an appeal? One would imagine from the severe comments and remarks which they have made upon it, there was something in it of a very dangerous tendency indeed! And yet this address is nothing more than an account of transactions rendered by trustees to their constituents. The address gives information of the federal debt, both foreign and domestic, states the demands and requisitions of congress for the current year, the expences and charges of our own government, the circumstances of our trade and commerce, the amount of our private debts and arrangements of taxes, the quantity of gold and silver in circulation, the impracticability of raising, by taxes, the sums wanted for the exigencies of government, the necessity of some system to relieve the people in payment of their taxes and private debts, the measures adopted by the house of delegates, the reasons by which they were influenced, and the senate's dissent to these measures; and then considering the senate's first message as an intended justification of their conduct to the people, the address joins issue upon it and requests the sense of the people to be expressed to both houses.

I see nothing in the address but what I have stated. If the senate's doctrine be true, then it follows the house of delegates are never to address their constituents on public affairs, especially if these affairs have been agitated by both branches and a difference of opinion entertained. And I take it for granted the doctrine equally applies to the senate.

Let us consider, for a moment, this doctrine. Both branches are the trustees of the people, and accountable to them for their conduct; but yet, neither branch, according to this doctrine, must render an account to the people by an address, nor give them information of what is done or doing by their trustees. If either branch should neglect its trust, or violate its public duty, yet the other branch must not inform the people of it; because to do so is to appeal to the people, and the house of delegates being more numerous, would be more able to misrepresent and dupe the people, and so get them on their side against the senate; and this would destroy the consequence and independency of the senate. Both branches must therefore hold their tongues, and not tell tales of each other to the people. However injurious and dangerous the conduct of either branch may be to the liberties of the people, yet all is to be hush! and the people are to find it out if they can; no information can constitutionally come from their trustees; for this would be an appeal to the people. And, on the principles of this doctrine, the doors of both houses ought to be shut, and the practice of keeping journals of the votes and proceedings ought to be abolished, and the liberty too of the Press as to the proceedings of the legislature ought to be taken away; because if the