

# MARYLAND GAZETTE.

T H U R S D A Y, F E B R U A R Y 22, 1787.

From the MARYLAND JOURNAL, &c.  
To the VOTERS of ANNE-ARUNDEL COUNTY.

GENTLEMEN,

Some of your delegates I hold myself responsible to you for my conduct, and bound to obey your instructions, in every case, in which you please to give them; or to resign my seat. I observe in the Maryland Journal, of this day, a draught of instructions, which are asserted to be now circulating among you for subscription. I esteem it my duty to caution you against putting your names to a paper, which, in my opinion, contains an explicit and absolute surrender of one of your greatest and most valuable rights and privileges, as freemen,—the right of instructing either, or both branches of your legislature, on any subject that materially concerns your welfare, happiness or safety. These instructions have two objects in view; one to prevent an emission of paper money on loan, to be received in taxes; and the other to establish a principle, that the people of this State have no right to instruct the senate, on any matter, however it may effect the prosperity, peace, or safety of the government.

As to the first object of these instructions, an emission of paper money, I know your sentiments, and have no reason to believe you have changed them; if you have altered your opinion, be pleased to inform me; and I will give up my private judgment, and endeavour to carry into execution your pleasure.

As to the second object of these instructions, "that you cannot constitutionally (that is, without a breach of it) interfere with the deliberations of the senate, (or in other words instruct that body, on any subject however important and interesting to you) until the ends of government shall be perverted, and liberty manifestly endangered," I earnestly solicit you most seriously to deliberate and consider the subject, before you give your approbation and sanction, to such a doctrine.

The framers of these instructions have assigned no reasons to induce you to adopt their opinion; and as so important a subject the sentiments of no man ought to have any further respect or influence with you, than what arises from the reasons adduced by him, and your confidence in his integrity, knowledge, experience and sincerity. The house of delegates are under a very different impression from the proposers of these instructions. In their address to you, they declare, "that they esteem themselves responsible to their constituents for their conduct, and that on all subjects that materially concern their welfare or happiness, they are to be consulted; and their opinions freely and fairly delivered ought to govern their deliberations." They also declare, "that they hold both branches of your legislature bound by the instructions of the people, whenever they please to give them."—I should imagine that the opinion of unknown individuals, if weighed in the scale against that of your house of delegates, would instantly kick the beam.

The instructions proposed to you for your assent, do not controvert the right of the people to instruct the members of the house of delegates; it only maintains the position, that the people have no right to instruct the senate. By only denying the right of instructing the senate, it seems to admit the right of control over the house of delegates.

If the people cannot constitutionally (that is, without a violation of it) interfere with the deliberations of the senate, during the five years for which they are elected, I apprehend it must necessarily follow, that they cannot interfere with the deliberations of the house of delegates during the year for which they are chosen. It seems to me, that every reason urged to exempt the senate, from any dependence on, or control of, the people, will apply with equal, if not greater propriety and force, to exempt the house of delegates. All lawful authority originates from the people, and their power is like the light of the sun, native, original, inherent and unlimited by human authority. Power in the rulers or government of the people is like the reflected light of the moon, and is only borrowed, delegated and limited by the grant of the people. The right of the people to participate in the legislature is the foundation of all free government, and where that right is not enjoyed, the people are not free; this right is the genuine parent of representation, and from this right proceeds a government, like ours, by representation. Both branches of our legislature derive all their power from the people, and equally hold their commission to legislate, or make laws, from the grant of the people; and there is no difference between them but only in the duration of their commission. Their autho-

ity proceeds from the same source, and is co-equal, and co-extensive. It appears to me, that the mode of choice by the people can make no difference in the political relation between the people and the house of delegates, and the people and the senate;—the former is elected immediately by the people themselves in person; and the latter is chosen by deputies appointed by the people for that purpose. The two branches have only a derivative and delegated power. The people create and vest them with legislative authority to be exercised agreeably to the constitution; and therefore both branches must be equally the representatives, trustees and servants of the people, and the people are equally the constituents of both. If the senate are under no control of the people, in any case, neither are the house of delegates. The legislative power by our form of government is granted to two distinct bodies of men, to operate as checks upon each other; and thence the evident necessity that each body should be entirely and absolutely free and independent of the other; but both bodies must be subject to the instructions of the people or neither. If there was but one branch of legislature, as in Pennsylvania, would it be independent of all control from their constituents? I have before observed that our government is a government by representation. The people appoint representatives in the senate and house of delegates to transact the business of making laws for them, which is impracticable for them to do in person. From the nature of a government by representation, the deputies must be subject to the will of their principals, or this manifest absurdity and plain consequence must follow, that a few men would be greater than the whole community, and might act in opposition to the declared sense of all their constituents.

The doctrine that the representatives of the people are not bound by their instructions is entirely new in this country, and broached since the revolution, and was never heard of but within these few weeks. You all remember that, under the old government, you claimed, and frequently exercised the right of instructing your members in the lower house of assembly. This right, and the exercise of it, was never questioned under the proprietary government. Astonishing to me, that any man should dare to doubt, much more deny, this right under the new government!—You also recollect that you claimed no right to instruct the upper house of assembly; and I conceive for this reason, because they were not elected by you, but were appointed by the proprietary; and were, in truth, his representatives. By our constitution you do appoint the senate, and they are, and have uniformly claimed themselves to be, your representatives. If they are your representatives, they are bound by your instructions, or you destroy the very idea of election, and of delegated power. To represent, is to speak and act agreeably to the opinions and sentiments of the persons represented, in the same manner as they would do, if personally present; of consequence therefore, to speak and act contrary to the declared will of the persons represented, is not to represent, but to misrepresent them.

The right of electors in England, to instruct their members in the house of commons, was never controverted, says a late writer, "until the system of corruption (which has since arrived to so dangerous a height) began to predominate in that kingdom; then it was, that arbitrary ministers, and their profligate dependents, began to maintain this doctrine, dangerous to our liberty, that the representatives were independent of the people." Before that time the constant language in the house of commons was "whose business are we doing? How shall we answer this to the people? What will the people of England say to this?" &c. &c. &c.

Our law books, and treatises by Sydney, and many other celebrated writers on the English government, inform us, "that not any particular members, but the whole body of the house of commons often refused to grant money, or to agree to requisitions from the crown, before they consulted with their constituents; and that they often adjourned for this purpose. The English history affords innumerable instances of instructions by the electors, in that nation, and to their members in the house of commons; and this practice, for above 150 years, proves the sense of the people in that country, of their right to instruct, and that their representatives were bound to obey them.

We also find that the members of the house of commons frequently declared, in debate, "that their duty to their electors obliged them to do as directed." Many of the greatest patriots the English nation ever produced, have declared their opinion that "it is the duty of the representatives of the people implicitly to obey the instructions of their constituents." A late judicious writer thus delivers himself,

"our representatives in parliament are not the bare likeness or reflection of us, their constituents; they actually contain our power, and are, as it were, the very persons of the people they represent. We are the parliament in them; we speak and act by them; we have therefore a right to know what they say and do; and should they contradict our sense, or swerve from our interests, we have a right to remonstrate and direct them; by which means we become the regulators of our own conduct, and the institutors of our own laws, and nothing material can be done, but by our authority and consent."

This doctrine that the constituents have no right to instruct their representatives, in the language of the two patriots, Sir John Barnard, and Sir William Windham, in the house of commons, "is not only a new and wicked doctrine, but it is the most monstrous, and most slavish doctrine that was ever heard, and such a doctrine as no man will dare to support within these walls."—A celebrated American writer observes, "when the right of the people to instruct their representatives is taken from them, they may justly complain, as Demosthenes did, for the Athenians.—That the representative has now usurped the right of the people and exercises an arbitrary power over his ancient and natural lord." This writer remarks, "that no instance can be produced in which the people have abused this right, nor is there any reason to believe they will ever do it; they act from what they feel; and when that feeling is general, it must be real." The virtuous and great Mr. Addison observes, "that the nobility and gentry have many private expectations, and particular interests, that hang like a false bias upon their judgments, and may possibly dispose them to sacrifice the good of their country to the advancement of their own fortunes; whereas the groans of the people can have no other prospect in changes and revolutions, than of public blessing; that are to diffuse themselves through the whole state in general."

I can find but one author who has ventured to assert, that a member of the house of commons is not bound by the instructions of his constituents. Judge Blackstone has delivered this opinion, and he founds it on a fiction, that after the person is elected he becomes the representative of the whole kingdom, and not of a particular part. The sophistry of this argument is sufficiently manifest; and it true, it would only follow, that all the members would be bound by the instructions of a majority of all their constituents. Judge Blackstone is against voting by ballot, in the house of commons, "because the conduct of every member is subject to the future censure of his constituents, and therefore should be openly submitted to their inspection."—A late writer observes on this opinion of Judge Blackstone, "if the members of the house of commons are not obliged to regard the instructions of their constituents, the people of this country choose a set of de pots every seven years, and are as perfect slaves as the Turks, excepting at the time of the general election;" and remarks, "that he laments that a writer, whose admirable work will be read as long as England, its laws and language remain, should be so sparingly tinctured with the true and generous principles of liberty."

By our constitution the general assembly are authorized to appoint delegates to represent this state in Congress; and you well know, that in very many instances, (some of them of the greatest consequence) the general assembly have claimed and exercised the right of instructing them, as to their conduct in their representative capacity. This power is not granted to the legislature by the constitution, and can only be supported on the principle, that the trust is delegated to them by the legislature, and therefore they must have a right to direct their conduct.

It is not unworthy of notice, that the proposed instructions most graciously allow the people to interfere with the deliberations of the senate, "when the ends of government shall be perverted, and liberty manifestly endangered." Where is this exception to the power of the senate to be found? Who is to judge when the senate shall pervert the end of their institution, and endanger the public liberty? The people I presume. Such a limitation as this on the power of the senate is useless; for if they may act without any control, until our liberties are in manifest danger, it may be too late to resist; and we then could only execrate our own folly and blindness in submitting to such a restriction of the power of the senate. The right in the people to resist their rulers when they attempt to enslave them, is paramount, and not derived from the form of government, and it supposes a subversion of the government before it can be rightfully exercised; but the right of the people to instruct the legislature is necessarily implied in the establishment, and is the very essence of our