## MARYLAND GAZETTE.

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HURSDAY, APRIL 19, 1787.

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To the PEOPLE of MARYLAND.

mankind have condemned me for pub-colicly afferting and maintaining, that, muntil the ends of government shall be perd, you ought not to interfere with the deliberagend, you ought not to interfere with the delibera-tions of the senate. They acknowledge the truth of the p-sition, but they apprehend danger from bring-ing the question into controversy. To me this cen-fore terms not to have originated from deep thinkirg.-The address of your delegates had afferted the right of instructions in the fullest extent and in the politive unequivocal terms. Both enemies and friends of the paper system had offered their draughts for subscription. It is probable that a majority of the prople will be found opposed to an emission. But, had not the right of binding the senate by in-Aradions been denied, the proceedings on this occa-fon, might hereafter be cited 4s a precedent. The ferce of the fenate on this point is truly to be commended; because their denial of the right would here afforded a pretext of charging them with an intemporate thirst of power-They had already been a cused of contemning the rights, wants, and sentiments of the people, and of being actuated by an everbearing aristocratic spirit. Whether or not they possessed powers for the general good, was a question with they thought improper at this feason for themfeiret to discuss. On these several accounts, it was my duty, as a guardian of the constitution, and not gainst what I thought a most dangerous inn varion.

Ascond class of political reviewers have passed on mea more severe sentence. They have declared, the disputes about the right are perfectly immaterisk that, let the meaning of the conflictation be fwhit it may, the senate is bound to respect the opiions of the people; that the prople, not being able Plegislate advantageously for thems-lves, ought in noft cafes to leave both branches entirely free ; that after every thing that can be faid or determined, whenever the great body of the people shall think poper to exercise their power, the right will be out the equ stion. To all these positions, except the set, I readily agree. I cannot admit, that it is nuguory to settle the question, whether, agreeable to the constitution, the people may oblige either branch n pass a particular bill. So long as the people shall be impressed with an idea that they can, at any time, conflitutionally control and direct the legislature, they may think it their duty fo to do; and they will be applied to for that purpose, whenever men of popular talents shall be disappointed in their favourite scheme: Those circumstances therefore will be more likely to take place, which might end in a diffution of the government-I mean an attempt to bird the senate by instructions, and the senare's refrang to act agairft their own judgments. But, let the people be thoroughly convinced, that they canciffilution of that government, which almost every the people, except on occasions of the last importatte, will be demed no better than a promoter of fedition, or what St. Paul calls " a pellilent fellow."

The destrine of the binding force of instructions bis been adopted upon a miliaken idea, that it is tornested with the principles of the English and Aperican revolutions. In England there was supposed to be a stipulation between the governing and governed, which was broken by one of their kings. On that occasion, the people, without essentially thanging their forms, transferred the supreme exetuive power to other hands. In America, even the ferms of government have been changed, and the revolution, in every respect is complete.—We refiled the attempt against our freedom, we threw off the fetters of desendence, and we adopted such modes of government, as we thought most suitable to ogr eircum ftances.

In Maryland, as in her fifter ftates, there is that, which has been much talked of by speculative writers, and has never besore existed, unless in a sew cubtful inflances quoted by Mr. Locke. We have a real compact, entered into on behalf of the peosommitted to two distinct bodies of men, without the est of both which, no proposition can be passed into whenever they flound become unmindful of their cludes his book with the following words?

When the fociety hath placed the legislative in the continue in them. and te may either fet alide, or reform the constitution. " their succeilors, with direction and authority for la other words, shall violate their contract, the pooan avoight of the true principles of indepen- " providing fuch fuccesfors, the legislative can never

any future difastrous period an attempt shall be " because having provided a legislative with power A M told that the thinking part of made to enflave you, or to take away any of your constitutional rights; provided always, that you have no other means of redress. By express stipulation therefore, is vetted in the people that right which they inherit from nature, and which they might vindicate without the flipulation.

The right of the people to bind their representatives, chasen under this compact, is quite a different thing. If it exists at all, it must, as well as that, be the people have a right to att as supreme, and founded on the constitution, or be inherent. It is " continue the legislitive in themselves; or erect & mere fophistry to allege, that a lesser right is involved in the greater; because that greater right cannot be exercised without a suspension, or a dissolution of the government, and this leffer right is to be exercised, whilst the constitution remains in suil force and vigour.

No man 1300 been yet hardy enough to confirme any part of the declaration or the form of government into a positive recognition of this right. But, although in making ample provision for the appointment of representatives, the constitution has not faid a word about it, there are some men, who save supposed it involved in the right of suffrage -

In the beginning, it was enough for me to fhew, that even admitting a right of binding your immediare representatives, it would be incompatible with the inititution of two citinat branches for you to have the fame right of binding the feners. On this head, I ihili mane no additional remark, except this very itering one. No law can be paded by the legislature, until a bill be proposed by one to the other lew if the people can direct both brancies when, in contequence of your instructions, a bill is originated and proposed by ore, the other's richt of differt is taken away. The doctrine therefore fomaterially contravenes pont ve povitions, that the framers would have at hair made an exception in its favour, had they intended or conceived that the people should puffels it.

It may feen extraor linary that a man, writing on so important a subject, thould have had no re-course we authority. The truth is, I conceived my arguments too powerful to reed the unfair aid of mighty names. It does not indeed occur to my mamory, that any writer before myfelf has examined the case of a legislature, confitting of two diffact bodies of men, deriving their authority insmediately, or ultimately, from the act of the people. My proposition has been tigmatifed with the epithet of newfangled. It may indeed be called new, because it is a fimple denial of an effirmative proposition, never advanced until the late unlucky disgreement.

The writer of a short essay in Mr. Godda d's pa-

per of March the ad, has examined the right of in-fructions generally. He has done it in a manner so fimple, concife and maserly, that no man who reads with a fincere defire of attaining the truth, can withhold his affent from any thing it contains. Being inserted as a sugitive piece, containing nothing but plain good fense, and the author being unknown, it may probably, by this time, be almost forgotten. I would recommend a perusal of it to every man who entertains a doubt respecting the subject.

I did not, at first, take notice of an essay under the fignature of Publicola; but I underftand that the author's confident affertions, and the great names he has mentioned for authorities, have even staggered men in the right faith. He has informed you, as I collect from the whole of his piece, that Mr. Locke, Molefworth, and Mr. Trenchard, have maintained with their pens the right of binding by inftructions; that Mr. Hambden and lord John Ruffel have maintained it with their blood, and that Mr. Algernon Sydney has maintained it with both. In a popular harangue, this affertion might not furprife Committed to writing, published to the world, and open for examination, there is no excuse or palliation for it, except that which Publicola would difdain to offer.

In Mr. Locke's two celebrated treatifes of govern. ment, I can find nothing to countenance the opinion, that in a government by representation the people have a right to prescribe a particular law. He confiders the natural unalienable right of interfering, when the ends of government are perverted or liberty manifestly, endangered, in the same light as I have tipits purpose. The whole power of legislation is done, except that he does not go quite so far with

" any affembly of men to continue in them, and

dence; and it is intended for your direction, if at " revert to the people, whilft that government lafte ; to continue for ever, they have given up their political power to the legislat ve, and cannot resume it. But if they have fet limits to the duration of their legislative, and made this supreme power in any person or assembly, only temporary; or else, when by the miscarriages of those in authority, it is forfeited; upon the forteiture, or at the determina-" tion of the time fet, it reverts to the fociety ; and new form; or, under the old form, place it in new hands as they think good."

I demand whether this be not a most pointed au-thority against Publicola's dectrine

I have mest diligently examined Mr. Algernon Sydney's discourses on government; I find in one of those the following words:

" We always may, and often do, give instructions to our delegates; but the less we fetter them, the more we manifelt our own rights, for those, who have only a limited power, must limit that which they give; but he that can give an unlimited power, must necessarily have it in himself."

In his page 451, is the following more remarkable and more intelligible passage.

" Every co nty dees not make a diffinct bedy, h ving in itself a sovereign power; but it is a member of that great body, which comprehends the whole nation. It is not therefore for K nt or outlox, Lewes or Maiditone, but for the whole nation, that the members chofen in those places are fent to ferve in parliament. And though it be fir for them, as friends and neighbours fo ta as may be to lieurien to the opinion of ciccors for the im ormation of their judgments, and to the end that what they shall say that be of more wight, when every one is known not to speak his own thoughts only, but those of a greater number of men, yet they are not firicily and properly obliged to give account of their actions to any, unless the whole body of the nation, for which they ferve, and who are equally concerned in their efolutions, could be allembled. This being impracticable, the whole punishment, to which they are subject, if they betray their truit, is scorn, infamy, hatred, and an affu ance of being rejected, when they shall again seek the same honour. Although this may feem a finall matter to the fe who fear to do ill, only from a fente of the poins inflicted, yet it is very terrible to men of ingenuous spirits, as they are supposed to be who are accounted fit to be intrusted with great powers."

These are the only material passages in Mr. Sydney relative to the subject, and these do not suit Publicola's purpose. Mr. Sydney's p ain meaning is this: "Constituents may indeed instruct, or communicate their opinions, or gire advice, which their representatives may follow, or otherwise, as they shall think proper, taking care to consult the general good, and incurring certain difgrace if they shall not act r ght."

To fay, that this extraordinary man fell a marter in support of the right contended for by the delegates, would betray either ignorance, or an opicion that ones adversaries are ignorant, and that the ren of the world are also ignorant, or will not choose to contradict a man endowed with fupe ior " powers."- The affertion, or rather the intimation, conveyed from the whole of Publicola's piece, respecting the great Mr. Hambdes and lord Ruffel Of Mr. Treachard and lord Molesworth, I know very little; but I will venture to fay, that neither has maintained the right of conflituents to direct abfolutely their representatives.

If the memory of the unfortunate Sydney be dear to all true patrious, and if all fuch, who are men of erudition, are acquainted with his writings, how comes it, that the diffinguished writer in the Annapolis paper, of February 22d, can find no auth re except judge Blackitone, who has denied, that a member of parliament owes implicit obedience to the directions of his conflituents. From this writer's very quotations, he must have been fensible, that other eminent men had long fince deniec it. Per-haps be-Will take "felter" under the diffinction tted to two distinct bodies of men, without the respect to the legislature's gratifying the wishes and nard and Sir William Wyndham; but does not say footh which, no proposition can be passed into fentiments of the people. Would any man, after on what occasion was uttered, or in what book may There is however a special reservation, that reading Publicola, conceive, that Mr. Locke conbetween auther and feater. He quotes Sir John Barnard and Sir William Wyndham; but does not fay be found, that forious indecent proposition, " that the freedom of representatives is not only a new and wicked doctrine, but the most montir us and morts. " flavish doctrine, that was ever heard, and fuck " a doctrine, as no man will dare to support within the shefe walls." Neither of these two gentlemen

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