

preferus, and not to destroy, proceeding upon these principles, he says, "that in a constituted commonwealth, (by which he means all established governments) there can be but one supreme power, which is the legislature, to which all the rest are, and must be subordinate. When this power abuses its trust, so as to become dangerous to the safety and security of the people, there is a supreme power in the people, to remove or alter the legislature; and thus the community perpetually retains a supreme power of saving themselves from the attempts, and designs of any body, even of the legislators, whenever they shall be so foolish, or so wicked as to lay, and carry on, against the liberties and properties of the subjects." In all cases where this may happen, Mr. Locke puts it upon the principle of self-preservation, that the collective body of the people can properly interfere. It is true he does not mention such acts of the legislature as have not this mischievous tendency; but from the whole of his arguments, it is apparent, that he meant to confine this power of the people to desperate cases; nay, he even supposes a dissolution of government, where they can with propriety exercise their supreme authority. In that situation they recover the delegated power, and may act as they think will be most conducive to their present and future welfare. But I will use his own words, "the community may be said in this respect to be always the supreme power, but not as considered under any form of government, because this power of the people can never take place, till the government be dissolved."

Now it may not be amiss, Sir, to make a short comparison between our own constitution, and the foregoing positions. The fourth article of the declaration of rights, which has been often quoted for a different purpose says, "that whenever the ends of government are perverted, and liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and ought of right to reform the old, or establish a new government."

Mr. Locke says, "that where the legislative trust is abused, so as to become dangerous to the safety and security of the people, that case they may remove or alter the legislature." So far it will be admitted on all hands, that the people have a right to interfere, and direct their trustees in all cases where they shall be inclined so to do. It is observable in the above quotation, that Mr. Locke makes use of the word *trust*, and considers the members of all legislative bodies as *trustees*; but he draws no such inference from these principles. His inference, drawn from the nature, the use and extent of the power delegated, is, that in every case, where the legislative body acts within, or does not exceed that power, the people cannot with propriety interfere, but that their right of interposition accrues upon such an abuse of trust, as endangers their safety and security. There is such a consonancy between the words and principles of the constitution, and those of this author, that it is evident to me the framers of it had him in view, when that article was drawn, and that the same spirit influenced them, that dictated his opinions.

On the subject of resistance, Mr. Locke compares the case of the legislature to that of a private trustee, who is accountable to the person conferring the trust, and concludes, that the people have in like manner a right to judge when those they depute, have violated the trust reposed in them, but he confines this to the case of resistance to arbitrary power. In the same chapter he says, "the power that every individual gave to the society, when he entered into it, can never revert to the individuals again, as long as the society lasts, but will always remain in the community; because without this, there can be no community, no commonwealth, which is contrary to the original agreement; so that, when the society hath placed the legislative in any assembly of men, to continue in them and their successors, the legislative can never revert to the people whilst that government lasts; because having provided a legislative power to continue for ever, they have given up their political power to the legislature, and cannot resume it. But if they have set 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 forfeiture, or at the determination, it reverts to the society, and the people have a right to act as supreme, and continue the legislative in themselves; or erect a new form, or under the old form place it in new hands as they think good." Thus it appears according to Mr. Locke's doctrine, that when the collective body of the people have entrusted legislative power to an assembly to continue for ever, they give up their political power to that body; and cannot resume it, but when it is forfeited by miscarriages; nor can it ever revert to the people, whilst that government lasts. He takes the case the same with temporary governments so long as they endure; for upon their determination, or forfeiture, the supreme power, he says, reverts to the society. The power is exactly the same in both, whilst it continues, that is, supreme, and only differs as to duration. But what does he mean by the word *miscarriages*? This we shall discover by comparing the present with a former quotation, of the same author. In this he asserts that the legislative authority is forfeited by miscarriages, and also, that this authority can never revert to the people, whilst the government lasts, therefore the miscarriages must be of such a nature,

as to occasion a dissolution of government. What conduct then in the legislature is it, that occasions a dissolution of government? Why such a conduct, says he in a former passage, as is dangerous to the safety and security of the people.

Another question, Sir, occurs in this place, which is an important one. What is meant by the people's giving up their political power, and having no right to resume it? Their political power here, as I understand it, is their right of legislation. Well, if as according to Mr. Locke, this is given up, will they have a right to direct, and to require that their directions shall be obeyed? I will not pretend to be positive, but in my apprehension this is not a real retumption of the legislative power, as some people may perhaps imagine, ought at least to be called in the style of the civilians a *quasi-resumption*; and their effects, I apprehend, will be nearly the same. I confine myself to those powers of the legislature, which are constitutional. If these be exceeded or abused, the people have a power superior to instruction, a right of compulsion; the weight of which, I sincerely hope tyranny may ever feel, whether it appears in the shape of a monarch, or of a general assembly.

Mr. Locke probably reflected, for he was not a *quidam* and *fortis* thinker, that there might be danger to a government from anarchy and licentiousness, as well as from an abuse of legislative authority. He meant to calculate his system, so as to prevent both. A constitution established on the principles of freedom and equality, not to be violated on the one hand, by those who were appointed to the execution of it, or to be infringed or rendered useless, by the rest of the society, might appear to him a scheme more beneficial to the whole, than that system, which being made secure on one side, was left open to invasion on the other.

Dr. Rutherford, in his institutes of natural law, makes a distinction between the constitutional and natural rights of the people; which he applies to all governments however composed. This distinction he founds upon the opinion of Grotius. "That body with which the sovereign power is lodged, or the repository of the community, is the legislative power of the collective body of the people, so long as it continues to act in conformity with the constitution; and commits no violation of the rights of the citizens. I will cite his own words in his comment upon the opinion of Grotius. "The point that he, Grotius, wants to establish is, that unless in perfectly democratical societies there is in some one man, or in some body of men, within the society, a civil despotic power lodged, which though it is originally derived from the collective body of the people, is exercised afterwards so far independently of them, as not to be subject to any constitutional restraint from that body. Despotic power is a bad name indeed, because it is commonly used to convey the notion of what is arbitrary and tyrannical. But this bad meaning will be taken off, if we call it civil despotism, which is the civil power originally inherent in the community or collective body itself, but entrusted by their consent either express or tacit, with the governing part of each community." In this case he says, "the people have no constitutional right to restrain or punish those governors, who are entrusted by them with this power. But then, where the constitution is broken, or where the constitutional governors pretend to, and make use of, a power which does not belong to them, a power of causelessly and arbitrarily oppressing the people, which is no part of civil power; our author as far as appears, does not contend, that in these circumstances the people have no natural right of doing themselves justice. And certainly we ought very carefully to distinguish between a constitutional right in the people to interfere in the affairs of government, to direct or restrain the legislative and executive bodies in the exercise of the power, that is intrusted with such bodies, and a natural right in the people to maintain the constitution, as it was at first settled, when any attempts are made to alter it; to resume the legislative and executive power, when the constitution has been broken; or to defend themselves against all unsocial or unconstitutional oppression."

The only remark I shall make on the foregoing passage is this, that Grotius, and after him his commentator, extends the doctrine laid down to all kinds of governments, whether the supreme authority be lodged in one person, or in a body of men. There is an exception with respect to societies perfectly democratical. But the import of that exception is, that in those societies there is no *seclusa* body, that possesses those powers. The reason is obvious, because in perfectly democratical societies, the people at large, or the collective body is the legislative power. This body is possessed of supreme power, but that power is not delegated, or exercised under any particular constitutional form.

To illustrate, and confirm these principles, I will cite one passage more, out of hundreds that might be produced, from the last mentioned author, and if I do not grossly misconceive his meaning, it will be considered, I think, pretty much to the point, "Whether the supreme governing body consist of a single person, as in monarchies, or of a number of persons, as in other forms of government; if we were to consider it as a trustee or deputy for the people, that holds the trust or deputation precariously, and has no right conferred upon it by being appointed to this office; the people would then be authorized judges of the behaviour of this supreme body; no-

thing, which they determined about its behaviour, could be wrong; they might remove it from its office for every fault, or for every suspicion, or even without any fault or any suspicion at all. But the governing part of a civil society, whilst it is a trustee for the general benefit, is not a precarious trustee, that has no right of its own, and holds at the will of the part, which is governed. Its power is limited indeed by the purposes of social union; so that the people are not in subjection to it, and may lawfully resist it, when it counteracts these purposes. But it has a right to this limited power, and cannot be justly deprived of it without cause, or be lawfully resisted in the exercise of it."

Supported by such authorities as these, I think I maintain a good cause, when I allege, that the interposition of the people, to use the most gentle term, in the ordinary matters of legislation, is improper, and is only useful and necessary, when according to the words and spirit of our constitution, "the ends of government are perverted, and liberty manifestly endangered." The names of a Locke, and a Rutherford, in the cause of reason and liberty, will surely outweigh the pompous, and often seditious harangues of a turbulent declaimer, the puny observations of a political scribbler, or the shameless assertions of a publisher of *spurious* extracts of letters.

But, Sir, it may be asked, for the most trivial questions are sometimes asked, are the people to stand tamely by, and see their rights violated, and their interests sacrificed? I answer no, they are not to stand tamely by, and see this going on. When they feel, or are fully convinced of this, they have not only a right, but it is their duty as men, and freemen, to rouse, and make the delinquents feel the full weight of their power and resentment. But before this be done, they ought to feel, or be fully convinced. A settled disposition in the legislature, or a part of it, to oppress, confirmed by act, should be the beacon to warn them of their danger, and to light them to revenge.

Now, Sir, I appeal to the good sense, and to the cool reflection of my fellow citizens. Is ours a constitution of such a frame, as to keep them in constant alarm, and in constant danger, and the liberty of the people being constantly in danger, ought to be guarded by constant attention, and watchfulness? Or does our constitution require their interference, but when, according to its express words, "the ends of government are perverted, and liberty manifestly endangered?" I have repeated these words often. They cannot be too often repeated. They, at the same time, point out the evil, and direct to the remedy.

Mr. Locke's opinion of such a government as ours is, that there is not much to be feared, where the assemblies are variable, whose members, upon the dissolution of the assembly, are subjects under the common laws, equally with the rest. When the legislature have made laws, the members being separated again, they are themselves subject to the laws they have made; which is a new and *near* tie upon them, to take care, that they make them for the public good. It ought not to be forgotten, that the authors last mentioned were the chief pillars upon which we supported the late revolution, and upon which our government is erected. To discard them now, when that is established, would be nothing less than to destroy the foundation, when the superstructure is raised, and upon which it can only be supported with credit and stability.

My intention, Sir, is to impress a veneration for the constitution under which I live. I wish to preserve the powers and independency of the whole legislature, and of each branch of it, entire and unfringed. This wish, I trust, is the wish of a good citizen, and a good subject. And I know no other way of effecting this, than by keeping in view and practicing the principles I have endeavoured to inculcate.

I shall make no comparison, Sir, between the senate and the house of delegates; nor shall I say any thing of the appeal of the latter body to the people. Although I think the measure wrong, I do not condemn those concerned in it. I have had the honour of serving with several of those gentlemen; and I am well satisfied they were actuated by the best of motives; the interest of the state. My view is to combat, and if I can, to eradicate opinions that I think mischievous. Should there be a single exception to what I have just acknowledged; should any part of this address affect any entertainer, or circulator of these opinions, it is not my fault. Perhaps upon fairly examining his own bosom, he will find me blameless. But, Sir, I have already intruded too much upon your patience. Let my apology be, and I know you will admit it, the importance of the subject. Believe me, Sir, with all due respect to your station, and person.

#### A CONSTITUENT.

To the AUTHOR OF CERTAIN LATE PUBLICATIONS IN THE BALTIMORE JOURNAL.

SUFFER me, Sir, to recommend to your serious consideration; the subject of the foregoing address. I assure you there is not a man in the state of Maryland, to whom I can with more sincerity offer this recommendation. The author of it delayed the publication, in a great measure, on your private account. He knew, that, as all your actions are attended with a peculiar éclat, you would be the more pleased with this notice, on account of the manner

in which it is as the most interested. break, you that you have you lately ad to a most resp your country Now a wo count; altho Mr. C—e very interesti You hono ample of publ as my name e the preceding writing the c have heard fr You there per, said to b came nearer t you usually s few persons, it was by acci allege, that I that I decline del county on money; I affu as ifa from a this time. T Age-Arunde would that wa would turn. have my avow that I though Is this a good here me, Sir, worthy of a tr who will equi ce of his mi thought vain, my intention gentlemen w proposed I through I indicate tha not from con the object I h I acted to pri deed. Your as proof, but of mind, whi dication, or rill, of Carr did not ballo my power to in your powe in the electio m seriously. section? He from others, this subject is to the reader. A few who have an ackn have been fer here, and th I also believe. with your con and beneficia convinced me these principl mites, but wa ther from the depravity of the belief, b cometh. If, at one glows with your break in stack the do legged to you and pen. D for that will pny; the ut common cou other branch upon them; the general g arful, contri such a right, of the state w You are you promised to the other. fore be cauti this state ha you, that t when they ha toly, or ar withdraw th great object they will not tation, nor v trust, unless have been vi They know the late revol energy to go tire of tyra ments that s of a subject. had for ever