

MARYLAND GAZETTE.

T H U R S D A Y, J U N E 14, 1787.

To the PEOPLE of MARYLAND.

SOME time ago, it was asserted, by the enemies of Aristides, that an officer of the government has no right to meddle with public affairs, except those which relate to his office. This position has given way to another more plausible. "A judge should dedicate the time, not employed in the administration of justice, to the abstruse study of his profession. He cannot otherwise be qualified, in all cases, to give skilful decisions. And, if he suffer himself to be drawn into the agitations of public discussion, he cannot hold with a steady hand the scales of justice." Let us contrast this doctrine with a celebrated law of an ancient brave enlightened people, whom the Publicola of all succeeding times have affected to admire. In the republic of Athens, instituted for the preservation of equal rights, and approaching as nearly as one could wish, to a perfect democracy, the man, who remained inactive during a civil commotion, was liable to be punished as a traitor. This law was intended to make each citizen feel himself a guardian of the public weal. The bearing an high office in the state would have been the worst of all defences for a man arraigned under this law; as his situation would have naturally induced his fellow-citizens to expect from him more signal services. But, mercy on us! how culpable amongst certain enlightened moderns is a judge, for assuming the title and office of a guardian of the constitution, and for protesting against innovations in a news-paper. A man of common sense however, when the duty of this guardian leads him to preserve his fellow-citizens from the dangerous impression of pestilent doctrines, will admit, that news-papers are of all others the most proper and convenient vehicles. Let me here propose a few queries to Publicola. Has he never applauded the former exertions of Aristides? Has he never commended the author for his reasonable, disinterested, and useful publications? Has he, on no occasion, advised him to employ his pen, for the public information? Before Aristides opposed the late paper system, did Publicola ever condemn him for an improper disposal of his time? But to descend to a more particular inquiry,—Did not Publicola, in the most flattering terms of approbation, speak to Aristides of a publication in the session of 1784, by which Aristides had the credit of having prevented a committee from bringing in their report for an emission of paper? When Publicola, from being the decided enemy of paper, on a sudden became as decided an advocate, it struck many men with wonder and amazement. But who was there, that considered Publicola's proposition as a signal for changing his own opinion? The man, my beloved countrymen, who makes truth his guide, and your substantial good his object, must ever raise up enemies to himself. Publicola has called me the partisan of power. He seems to have adopted the cant under the former government. What power is there, to which Aristides pays his court? Is he labouring to augment the authority of the governor and council? And if so, how is it they can requite him? Is it then the senate, whose authority Aristides would erect on the ruin of your liberties? Has he made any attempt to extend their privileges, augment their power or increase the duration of their offices? Has he ever ascribed to them alone the power of making laws? He well knows that the senate cannot even propose a money bill, and that, whenever they venture to propose any other bill, which is rejected by the delegates, there is an end of the business. They never think of appealing to the people, and thereby compelling the delegates to adopt their proposal. He must then, after all, be a partisan for the power of the delegates. He has maintained indeed, that, in passing or rejecting bills the two branches are on terms of perfect equality; and that the members of each branch are at full liberty to exercise their own judgments. Examine well the position, and say whether it can justify the charge.—That the position has ever been denied, he presumes is not, because it would tend to the establishment of undue power; but because, if both branches, as to the ordinary affairs of government, are under the control and direction of the people, one of them must become far greater than the other. From the nature of things, the people must, in most cases, decide in favour of their immediate representatives. The consequence will be this. No man of superior worth will prefer a seat in the senate, degraded thus from its constitutional importance. One branch will in effect become supreme; and the state

may be ruled by a few men, combining from interest or ambition. Reflecting maturely on these things, you will view Aristides in his true character, not the base sycophant, and partisan of power, but the real and not pretended assertor of equal rights,—the determined foe to arbitrary sway. As well might Publicola be compared to Catiline or Cethegus, as Aristides to Sir Robert Filmer or Judge Jeffries. But on no occasion, if even detected and fairly exposed, would Aristides descend to illiberal abuse.

What a wretched thing is man, under the dominion of malignant passions! Publicola has even made some malicious insinuations respecting the professional capacity of Aristides. To a charge of this kind it is difficult to answer, without deviating from the received rule of propriety. I am happy however, that to you, my fellow-citizens, I can safely make my appeal. To whom has Aristides behaved with the insolence of office? To whom has he denied, or wantonly, or unnecessarily, delayed, or made a shameful traffic of justice? On what occasion has he failed to maintain his dignity? Whilt dependent on a precarious annual vote, was he ever dependent in his opinions? or did he ever yield to the improper influence of leading members? He defies the world to shew one instance, where he has not bestowed a becoming attention to the matter before him, or where his judgement has been biased by fear, affection, prejudice, or partiality. He has ever felt too much anxiety not to use all proper means of information, and, at this moment, he reflects with a conscious pride, that his decisions have been universally approved by the intelligent, the impartial, and the disinterested.

On no occasion have I undertaken a task more irksome than the present. When assertion is substituted for sound argument, and pointed authority; when that assertion is mingled with invective, and slander is veiled in general terms; when at one moment Publicola maintains almost the doctrine of Aristides, and, at the next changes his ground, when he uses words suited to mislead, and then taxes Aristides with indecency and falsehood for not conceiving him aright; the labour of pursuing him appears almost endless—There are some who will censure Aristides for honouring those disgusting effusions with his notice, whilst others will perhaps require a comment on every part.

It was impossible for common sense to consider the recent appeal of the delegates otherwise than as an attempt to force, at last, upon the senate a measure, which it had repeatedly and unanimously rejected. Aristides conceived every principle of policy and justice opposed to the plan; and the means of effecting it, should they succeed, appeared far worse than the measure itself. It was the general idea, that the sense of the people should be conveyed by written instruments or instructions. At the instance of several respectable men, he prepared a draught, expressing in the most decent respectful terms, a disapprobation of the plan, and defining the peoples general right of interference. Had there really existed a dispute between the two branches, necessarily and constitutionally to be decided by the people, it was certainly improper for either a senator or delegate to dictate either the form, or substance of the decision. The interference of Aristides, both as a matter of right and a matter of duty, was natural, proper, and consistent with his official character. But no sooner was his draught submitted to the public, than he was abused in news-papers, by Publicola, by the delegate of Anne Arundel, by a scandalous anonymous letter writer, and by several others, not to be named. He then supported his opinions by a pamphlet, the success of which exceeded his most sanguine expectation. Trusting entirely to the force of his reasons, and taking up the question on the true construction of the constitution, he quoted no other book or authority of any kind. But, as many of you thought the opposite doctrine countenanced by the principles of several admired writers and patriots; and, as he had ever found authority more prevalent than reason, he determined to consult books, and quote authority. He had never perused the essays on government, of either Sydney, or Locke. From passages in Publicola's first address, he had supposed them advocates for the right of the people of England to control their representatives, and was utterly astonished to find both these writers pointedly in his own favour. He therefore published again, to detect misrepresentation, and to turn against his opponents those very authors, which vaguely they had quoted against him. Hence sprung the rage and clamour of Publicola. Like a foaming champion he has rushed forth, regardless of hazards, provided he could annoy the man who had neither wronged nor wished to wrong him, and who, at

that time, was concerned for his delusion. He did not, however, think proper to answer the pamphlet of Aristides, nor the excellent essay in Mr. Goddard's paper. On a vain supposition, that Aristides had mistaken the meaning of Sydney, he reproaches him with not understanding what he read. Examine the passage again.

"Every county does not make a distinct body, having in itself a sovereign power, but is a member of that great body, which comprehends the whole nation. It is not therefore for Kent, or Suffex, Lewes, or Maidstone, but for the whole nation, that the members chosen in these places are sent to parliament. And though it be fit for them, as friends and neighbours, so far as may be to hearken to the opinion of electors, for the information of their judgments, and to the end, that what they shall say may be of more weight, when every body is known not to speak his own thoughts only, but those of a greater number of men; yet they are not strictly and properly obliged to give an account of their actions to any, unless the whole body of the nation for which they serve, and who are equally concerned in their decisions, could be assembled. This being impracticable, the only punishment, to which they are subject, if they betray their trust, is scorn, infamy, hatred, and an assurance of being rejected, when they shall again seek the same honour, &c."

I still maintain my construction to be right. When Mr. Sydney asserts, that a thing cannot be done, he has more sense than to suppose the people have a right to do it. Is there ought in this, or any other passage to shew, that, if a majority of counties and boroughs should join in one letter of instruction, the whole house of commons would be bound implicitly to obey it? Aristides might here retort; but every body knows that Publicola and he are both learned enough to understand plain language.

The dispute is not concerning the propriety of the peoples voluntarily offering their opinions, advice, or remonstrance. In times to come, perhaps these may operate as reasonable checks to arbitrary proceedings. When genuine, and fairly obtained, who is there will dare to despise them? When obtained in the manner lately essayed, on a subject, whereon the people in general never pretended to be competent to decide, who is there of a proper turn of mind that will hold himself bound to obey? Take the following passage from Mr. Hume, an author whose political essays have been ever greatly respected.

"The political controversy, with regard to instructions, is a very frivolous one, and can never be brought to any decision, as it is managed by both parties. The country party pretend not, that a member is absolutely bound to follow instructions, as an ambassador, or general, is bound by his orders, and that his vote is not to be received in the house, but so far as it is conformable to them. The court party again pretend not that the sentiments of the people ought to have no weight with each member; much less that he ought to despise the sentiments of those he represents, and with whom he is more particularly connected. And if their sentiments be of weight, why ought they not to express them? The question then is only concerning the degrees of weight, which ought to be placed on instructions, &c. &c."

I dare believe no man of the least consideration in England ever supposed, if instructions were not obeyed, that the people had a right to dissolve the government. The dispute in England is indeed frivolous; but our dispute is of a different cast; because Publicola expressly denies, that delegates or senators have a right to vote against them, or that the legislature can decline passing a law, dictated by a majority of counties. If you can adopt his sentiments, the consequence will be this. Either the disobedience of the legislature may produce convulsions in the state, or, by the instrumentality of the people, a single man of great popular talents, or a small combination of such men, may carry measures against the united wisdom of the legislature.

* On the mistake occasioned by Publicola's first address, it was natural for Aristides to speak of Mr. Sydney, in terms of disapprobation. He was not fully apprized of Mr. Sydney's merit, but on finding he had wronged him, it was natural for a man of candour to make a concession, although he could address only the names of the injured patriot. To acknowledge voluntarily an error, is the part of a liberal soul, and never yet discovered a character truly to be rejected. But a proud, arrogant man, will commit an hundred wrongs, sooner than atone for one.