

MARTLAND GAZETTE.

THURSDAY, AUGUST 16, 1787.

To A. R. I. S. T. I. D. B. S. I.

... have at length honored me with a personal address. Whatever my manifold attributes may be, I find they are sufficient to make you feel, when I think proper to give your vanity a public correction...

But this reasoning of mine, you are pleased to tell, is all jargon and absurdity. It is jargon, you say, to talk of rights paramount and not transferred compact...

By men versed in legal technical phrases, the word "paramount" is well understood; by others it may not be. By rights paramount, we mean, rights which the people hold by a title or tenure other and higher than the compact, constitution or government, of a country.

You deny there are such rights, and say, to talk of such is jargon. I maintain the contrary position. What then are these rights? I will tell you. The right to private judgment in matters of conscience and religion; the right to life; the right to liberty; the right to the pursuit of happiness...

All these rights, Sir, derive no part of their force from any compact, constitution or government. Nor are they parted with or transferred by any compact that we have made. For what power, I would ask, can take away my life, or my liberty, &c? In whose hands have I lodged such a power? If, indeed, I commit certain crimes or offences, I forfeit both life and liberty to the state; but in a state of nature, if I commit the

like crimes, I forfeit both life and liberty to the party injured. But in a state of nature the party injured does not take my life upon any compact or transfer, but upon the ground of forfeiture for crimes, to the state, standing in the place of the injured individual, can deduce no right to my life from any transfer of it by compact, but takes it upon the like ground of forfeiture.

But, most learned judge! you assert, that to talk of a natural right to appoint and control a deputy, agent or trustee, in a state of nature, is all jargon. And pray, where is the jargon? Did the Supreme Being ordain that mankind, while in a state of nature, should always act personally, and never by deputy, agent or trustee? Where do you find that He has declared, that such was his will and command? Or was mankind at that time of day not only morally but naturally disabled from making such an appointment? Was there no intercourse in a state of nature, no dealings on contracts, no exchange of kind offices, no mutual dependence, from mutual wants and necessities? Why then suppose that the Supreme Being should withhold or decline to grant them, while in that state, the right, if they think proper to make a deputy, agent or trustee, and to control him occasionally by instructions?

But this is impossible! says Aristides; for in the name of all that is profound, how was such a deputy, agent or trustee, to be controlled? Why most profound Sir, just in the same manner as delegates or senators in civil society, viz. by instructions; if that is not sufficient, then by force. But this cannot be! says Aristides, for in a state of nature every man is upon an equal footing, and no other force can be applied than what arises from superior cunning and strength. And, most profound Sir! when force becomes necessary to be applied to delegates and senators, and a dissolution of the powers of government ensues, I wonder what other force can be applied than what arises from superior cunning and strength.

But admitting, says Aristides, that the people might individually, in a state of nature, make a deputy, agent or trustee, yet the absurdity still remains to be maintained, that the people in collective bodies could do it. Where, Sir, is this absurdity? Are you to be taught that there were not only individuals in a state of nature, but societies of individuals? Was there no such society as man and wife? No such society as parent and child? No such society as master and servant, by contract and stipulation? Might not families then spread to the like extent as now, and form numerous distinct societies, and yet all upon an equal footing, without any superior invested with legislative powers? And might not these societies or collective bodies have dealings and transactions that required the intervention of a deputy, agent or trustee? If so, did the Supreme Being forbid such appointments by any moral or natural impediment? If not, where, Aristides, is the jargon you charge upon Publicola?

Well! but if collective bodies could make such appointments in a state of nature, yet there were no delegates or senators in a state of nature. And what then? Therefore the people, in collective bodies, have no natural right to make delegates or senators, or in collective bodies to control them. Excellent reasoning indeed! I suppose in a state of nature, the people, both individually and collectively, had a natural right to drink. Will it follow, that because in a state of nature there was no claret, therefore in civil society they have no natural right individually or collectively to drink claret?—I think not.

You doubt, you say, whether there was such a state as a state of nature—the partisans of power, and advocates for despotism, not only doubt, but deny it. They contend, that rightful government is not founded upon compact; that the original government of mankind was an absolute monarchy, established by divine authority. They further contend, that it is ridiculous to say that God placed mankind in a state of freedom and equality; that there was a monarchy from the beginning of the world; that men are not born free, but born in subjection to that monarchy; that there being no such state as the state of nature, there are no such things as rights to life, liberty or happiness, or rights paramount the authority and sovereignty of the first monarch, and his dependents and heirs.—And that mankind hold their lives, their liberties and properties, at the will and pleasure of the monarch.—Such were the doctrines and principles of the partisans of power, and advocates for despotism, and Mr. Filmer was the chief and principal.

But these absurd and slavish principles were opposed and exploded by Mr. Sydney, Locke and other patriotic writers. They contended there was such a state as a state of nature, a state of freedom and

equality; that mankind were placed originally in this state; that in this state there was no superior, but every man stood upon an equal footing. That this being the original state of mankind, they never could be rightfully removed out of that state, but by their own consent. And therefore, that all rightful government is founded upon compact. But Aristides it seems doubts whether there was even such a state as a state of nature.

Hear Sir, Mr. Locke, what he has to say on this subject. "I affirm, all men are naturally in that state, that is, a state of freedom and equality; and remain so till by their own consent they make themselves members of some political society." Page 153.

Again, "To understand political power aright, and derive it from its original, we must consider what state all men are naturally in, and that is a state of perfect freedom, and also of equality." Page 144.

But the learned Aristides differs from Mr. Locke. This celebrated writer is received as an oracle by the enlightened part of mankind, upon all questions touching principles of liberty and of government. When, Sir, shall we see the blessed day when your laborious memorials, laborious pamphlets, and laborious addresses to your beloved countrymen, shall be cited and admitted as equal authority?

You ask, whether I seriously assert, or whether it is one of my jokes, that Mr. Locke, in the passage you cited, means nothing more than whilst government exists the people cannot exercise the powers of legislation, exclusively and independently of each other? I do Sir, assert it most seriously, and your miserable evasion of my construction is a clear evidence that you cannot meet it upon fair argument.

Let us once more have this passage before us. "So also when the society has placed the legislature in any assembly of men, to continue in them and their successors, with direction and authority for providing such successors, the legislative can never return to the people, whilst that government lasts; because having provided a legislative with power to continue for ever, they have given up their political power to the legislative, 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 of the time set, 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 it good."

Does this passage disprove my assertion? Is it not the meaning of Mr. Locke, that the powers which the people give up on the establishment of a legislature, cannot revert back to them whilst that legislature or government exists? And how were these powers exercised before they were transferred? I know of no other way, but individually and exclusively. And how are they to be exercised when they revert to the people, under the contingencies which Mr. Locke mentions? I know of no other way than they originally exercised them, that is, individually and exclusively.—If you know of any other way, pray Sir why not mention it? It is no doubt very material that you should; for if my construction be right, nothing can be more ridiculous than your citing this passage as an authority against the people's right of instructing.

You still persist, and demand to know, whether this passage is not a pointed authority against the people's right of instructing; I again reply no. It is no more an authority against the people's right of occasionally instructing, than against the people's right of periodically electing the senate and delegates. For I repeat it, the power which Mr. Locke speaks of as incompatible with government while it lasts, is the power of legislating individually and exclusively, in the manner as exercised before the establishment of the government. Now, Sir, for the people to instruct is not to legislate individually and exclusively; for the majority only can bind and conclude by instructions. And this right of instructing is perfectly consistent with the idea of an established form

drifted in the estimate of expenses accompanying memorials.