The Maryland Republican.

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For the Maryland Republican.

TO THE PEOPLE OF MARYLAND.

Bishop Claggett and Parson Bend's Church Bill, artfully entitled "A bill to *incorporate (but honestly speaking, to establish)* the *Convention* of the Protestant Episcopal Church in Maryland," *to promote (as they say) not* their own *interests, the interests of* "*virtue and religion*"

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THE objections to this bill from its title to its conclusion, are too obvious to escape the most cateless observer. An incorporation of the *Convention* of the Protestant Episcopal church, upon any terms that my imagination can suggest, would not tend to the advancement of religion in general, or of the Protestant Episcopal church in particular. The vestry act of 1798, creates corporate bodies in every parish, vested with ample powers to do all things essential to the promotion of real and vital religion; every parish or congregation, either does or can possess this corporate body, and therefore is, or may be, in the enjoyment of all the advantages to be derived from it. To what *useful* purposes, the attention of this Convention can be directed, under an act of incorporation, which they cannot perform at present, I know not, but sure I am, that if any such purposes do exist, they are not to be found in the provisions of this bill.

Against the first enacting clause, several great objections present themselves—first, a *self-created, self-elected* body, are clothed with important and general powers—secondly, no parish, congregaton, or other portion of the people of Maryland, possess any power or controul over this corporate body in the right of election, and thirdly, it is vested with unlimited power in the acquisition of funds, both real and personal, in absolute contravention of both the letter and spirit of the bill of rights, and of the invariable tenor and principle of all other laws upon similar subjects. The first and second objection to this clause are necessarily blended together, and the same arguments will apply to both—an incorporation either in church or state, of a self-created, self-elected body, and over whom no portion of the people are vested with any power in the right of election, must be admitted by every candid intelligent man, to be in direct hostility to the genius of our republican institutions, and dangerous in the extreme, both to civil and religious liberty. This bill is, perhaps, the first attempt of the kind ever made in the state, and I believe it may with confidence be asserted, that if the whole code of the laws of Maryland were searched with the utmost circumspection, there would be no instance found, either in church or state, of a law giving important and general powers to any body of men, who created themselves, who fill up their own vacancies, and who are under no responsibility for their conduct, to any portion of the people, by periodical election. This bill gave to the Convention general powers over the property and concerns of citizens who are not represented therein. Compare this bill with the principles ingrafted in the Declaration of American Independence—compare it with those principles of civil and religious freedom for which our fathers fought, bled, and conquered, and you will find it to be totally repugnant thereto—Yes, citizens of Maryland, it was laid down as a maxim in the year '76, as unchangeable as the laws of the Medes and Persians, that no portion of the people of these United States should be bound, either in their persons or their property, by the laws of any body of men, over whom they have no controul by their elective franchise. This bill not only gave extensive and general powers to the Convention, specifically laid down, but it likewise gave them the power to make laws, and to carry those laws into effect to an undefined extent—it erected them into an absolute aristocratical body, with legislative, executive and judicial powers.

The third objection is one which ingenuity itself cannot distort, or sophistry gloss over—Can we believe that the Framer, and the friends of this bill were ignorant of the most important feature in our Bill of Rights, and the provisions of all other laws for the incorporation of churches? No—such an idea cannot be admitted for a moment; particularly when we know that BISHOP CLAGGETT and PARSON BEND were two of the petitioners—that Mr. ARTHUR SHAAF, Mr. R. C. STONE and Mr. GALE, (three federalists, and two of them *lawyers*, out of five members on the committee in 1807) and also the politics and information of Mr. CHAPMAN, C. DORSEY, and EPHRAIM KING WILSON, who composed the whole committee in 1808, the year which this law was smuggled, *two days only* before the close of the session, through a federal House of Delegates, with the exception of the last clause, which happened to be discovered by, and struck out, at the instigation of a democratic lawyer—yet in positive contradiction to the Bill of Rights, and the uniform tenor of all other church bills, the Convention of the Protestant Episcopal Church are vested by this bill, with *unlimited* powers, in the accumulation of property of every description.—Does not this provision of the bill carry along with it, the most *conclusive* and *irrefragable* evidence, that a bold attempt has been made to place this Church upon higher grounds than all others, and that too, at the expense of the most valuable and sacred principle of the Bill of Rights? I shall not enter into a long train of reasoning to justify that article of our Bill of Rights which limits the accumulation of funds in every church in Maryland. The venerable patriots who framed the Constitution, undivided by party dissentions, having no object but their country's good, adopted this article as a security in future against that church domination and ecclesiastical tyranny which prevailed *here* in "old times," when every taxable head had to pay 40 pounds of tobacco towards the "*established church.*"

The fifth and sixth clauses of this bill gave the Convention power to appoint a committee to consist of their President and Secretary, that is, Bishop *Claggett* and Secretary *Bend*, which committee are vested with most extensive and unwarrantable powers. It is a phenomenon in legislation indeed, to vest a corporate body with power to appoint a committee for certain purposes and then to say who that committee shall consist of. Why are the President and secretary, or rather, I might ask, why are Bishop Claggett and Parson Bend fixed upon to go this circuit, and exercise the vast, important and dangerous powers given to the committee by that bill? If it was needful for the Convention to appoint a committee at all, why not give them the whole range of that body for selection? The reason of this is too evident to require an answer—Mr. Claggett and Mr. Bend were viewed as fit instruments to carry into execution the ambitious, *intolerant* and *mercenary* schemes of themselves and the friends of this bill. But what are the powers conferred upon this unaspiring, heavenly-minded committee, this self-same Bishop Claggett & Parson Bend? Read the bill with attention, and you will find them clothed with greater powers than ever were given to any two men in Maryland since the Declaration of Independence—a Turkish bashaw or an Eastern nabob, or even the Bishop of Canterbury and York themselves, could hardly ask for more. They would have had by this bill, the power of making a tour of the state, through every parish where there is no clergyman employed, and vestry or no vestry, to sweep all our church property into their strong box, and if they should happen to be displeased with the conduct of any vestry, they may institute a suit against them, and drag them arbitrarily before a court of justice. Now, I appeal to every candid man, I ask every freeman of Maryland, if, when they elected their delegates, they intended or wished them to confer on Bishop *Claggett*, Parson *Bend*, or any other two men, such tyrannical and despotic powers?—You choose honest and respectable men of your vicinage for vestrymen, and under the solemn obligations of an oath, they proceed to manage all the concerns of the church, *they* are *responsible* to *you* for their conduct by annual election, and you have confidence in them. Over this Convention and over this committee, you have *no controul*, *they* are bound by *no tie* whatever to consult *your interest* or convenience, *they* are totally unacquainted with you and your concerns, there does not exist even the obligation of an oath, as a security for their good behaviour. But *still*, my fellow-citizens, this Convention and this committee are vested with the power of taking all the property and other concerns of the church out of the hands of the vestries, (your immediate representatives, composed of your neighbours and acquaintances, and *bound to you* by mutual ties of friendship and local interests,) and are not bound by any provision in that bill, to render an account of their official conduct to the people of the parish, whose property and other concerns they may think proper to interfere with. The most important affairs of the church, are put into the hands of men, with whom their own whim, avarice or caprice, form the only rule of conduct, and who are not bound to make any report to us, or shew any cause for their proceedings, whatever they may be.

People of Maryland, when the time arrives that your minds are prepared to sanction a domination, and tyranny of this kind, then indeed, may you bid farewell, an eternal farewell to every principle of civil and religious liberty—America will no longer be viewed as the last solitary spot on the globe, where the PEOPLE are *permitted to govern themselves, by equal and permanent laws of their own formation; where man understanding the rights of man, is no longer a mere beast of the field, but feels himself in spirit and in truth, the image of his God.*

The last section of this bill, which was struck out at the instance of a democratic lawyer, and is now attempted to be withheld from the people, appears to cap the climax of ecclesiastical ambition—not content with giving to this corporate body specific powers of the most extravagant nature, this section erects them into a complete legislative body, with powers to make laws, to create taxes by laws, and then to *compel* payment of those taxes, in case we should be unwilling to pay them. It is certainly unnecessary to make any comment upon this part of the bill. I should deem it an insult to your understandings to tell you, that the Convention ought not have power to make laws of any kind, much less to tax us for religious purposes, because it would imply that I either thought or feared that there were some amongst you so vile, so base, so stupid and degenerate, as to be willing to have such a power exercised over you. The legislature itself, has no right to tax the parishes for the support of a particular religion, much less can it be supposed they ought to confer such a power on Bishop Claggett and Parson Bend, or any other men or set of men.

And yet, people of Maryland, do not the federal candidates in all the counties, add insult to injury, by telling you this is an *innocent*—a *harmless* bill? Yes;—Do they not villify the Senate for having rejected it? Yes.—If then, they believe it to be proper and correct, as you all know they say it is, are they not bound by their own declarations to make it the law of the land, when they have power to do so?—Yes.—*Are you prepared then*, to place your persons and property thus under the mercy and controul of the Convention of the Protestant Episcopal Church in Maryland? If, citizens of Maryland, after a seven years' war to obtain it, thirty short years of religious freedom have ended in loathing it, then Liberty, thou art indeed, but the shade of a dream—Montgomery and Warren have surrendered their lives in exchange for a bauble, and the best blood of America has flowed only to prove the fatal, unhappy tendency of man to degenerate—but, away with such gloomy forebodings; *truth* and *patriotism* shall triumph over *treason* and *falsehood*, and Maryland shall be free from the shackles of ecclesiastical tyranny.

A PLANTER of Prince George's.

FOR THE MARYLAND REPUBLICAN.

Was the President of the United States authorised to issue his Proclamations of April, and of August, 1809?

A question has been submitted to the public, whether the president of the United States, in issuing his proclamations of the 19th of April and of the 9th of August, 1809, relative to the restoration and to the interdiction of commercial intercourse between the United States and Great-Britan, is justified by the laws of the land? If those who have proposed the query have urged it from doubts that are sincerely entertained, their minds will unquestionably be open to every candid consideration of the subject which can produce conviction as to the error or the correctness of the procedure of the executive. For my own part, I do not hesitate to avow my impressions to be in support of the legal propriety of both proclamations; and without further preface or digression, I proceed to cite that provision of the non-intercourse law which empowers the chief magistrate to renew the operations of trade between America and England.

By the eleventh section of that law it is enacted, "That the president "dent of the United States be, and he "is hereby authorised, in case either "France or Great-Britain shall so "modify her edicts as that they "shall cease to violate the neutral "commerce of the United States, "to declare the same by proclama-"tion." Let these expressions be analyzed. "In case either France "or Great-Britain shall *so* revoke or "modify her edicts, as that they "[the edicts] *shall cease* to violate "the neutral commerce of the Unit-"ed States." It will be remarked that the words of the law do not require an absolute, unconditional revocation of the edicts to have taken place previously to the president's issuing his proclamation; but merely that "France or Great-Britain "shall *so* revoke or modify them, as "that they *shall* cease to violate" our commerce. The verb "*shall*" indicates a *future* period. If congress had intended that the edicts should have been rescinded before the promulgation of the executive proclamation, they would have said "shall *have* ceased," and not "*shall* cease." The adverb "*so*" relates to the *mode* in which they might be revoked or modified. It remains to be ascertained, whether the British orders in council were "*so*" abrogated as to afford the necessary safety.

On the 19th of April, 1809, Mr. Erskine wrote to Mr. Secretary Smith, saying, "I am authorised "to declare that his majesty's or-"ders in council of January and "November 1807, will have been "withdrawn as respects the United "States on the 10th day of June "next." Mr. Erskine spoke in the name of his government. "Will *have been* withdrawn on the 10th day of June." The time of their revocation was thus definitively fixed by his Britanic majesty's representative. Of course, a period was specified by Great Britain, when her edicts should be "*so* revoked as that "they should cease to violate the "neutral commerce of the United "States;" and the president, as he was authorised, "declared the same by proclamation." The executive could not have done otherwise; he had no option, unless he had chosen to take upon himself a most enormous responsibility. As soon as the English ambassador, for his sovereign, announced that the orders in council would positively be rescinded on the 10th of June, it was the president's duty to proclaim it; and, accordingly, he did proclaim it.

Independent of this elucidation, derived from the words of the non-intercourse law under which the chief magistrate acted, the subject is susceptible of a very conclusive construction from the circumstance that it was notoriously the intention of congress that intercourse should be renewed with the belligerents respectively, whenever France or Great Britain should announce a definitive resolution to respect our neutral rights; and more especially if either of those powers should propose a *cotemporaneous* abrogation of the edicts and of the embargo. If the president was not to issue his proclamation till the orders in council *had been* withdrawn, that very circumstance would have afforded a pretext for the English to persevere, inasmuch as they could have said, that however willing they were to meet the United States upon *equal* terms, yet they could not consent to take the *first step*. Congress expressly wished to avoid giving the English ministry and room to hold such language; and, therefore they so framed the non-intercourse law, that its suspension should not depend upon a *past* but a *future* contingency; that is, upon a certain assurance of revocation, provided our laws were not suspended previously to the day on which the British orders were to be withdrawn.

So much for the first proclamation. Let me now examine the presidential powers with regard to the proclamation of August last.

It will be admitted by all men of sense as very just reasoning, that if the executive of the United States had issued his proclamation of the 19th day of April 1809, restoring commercial intercourse between the United States and Great Britain, before the government of England had indicated its intention to withdraw the orders in council, that then the proclamation would have been illegal, and contrary to the provisions of the eleventh section of the non-intercourse law. This being granted (and no one, I presume, will dispute it) what difference is there between a revocation of the orders not promised, and a revocation promised but not fulfilled? Every person can see at a glance that there is not the smallest difference. Wherefore, as Congress, at their session of May 1809, enacted no law to renew commercial intercourse with Great Britain, and the condition upon which the president's proclamation of April nineteenth 1809, was issued, having failed by the refusal of the British ministry to ratify Mr. Erskine's arrangement, that proclamation became null and void. It is impossible to conceive a case more clear and unequivocal. Congress granted the president of the United States power to issue a proclamation if a certain thing should in a certain way occur; that thing did occur, and was sanctioned by the solemn and official pledge of an accredited minister; the president then issues the proclamation: but eventually, the sanction and the pledge of the minister are not confirmed, and the thing whose occurrence was necessary to the issuing of the proclamation, is as if it had never happened. Of course congress having enacted nothing to the contrary, the state of things which existed previously to the issuing of the proclamation, recurs. My opinion is, that if the president had never issued his proclamation of August 1809, the non-intercourse law, in all its original force, would have revived the moment the American government was officially notified that the British cabinet had refused to verify Mr. Erskine's arrangements; and that the annunciation of that refusal by the proclamation of the executive was a mere formality, requisite only as it tended to give consistency to the acts of our government.

What has confused the subject more than any thing else, is this; the president has been considered as renewing and stopping commercial intercourse by the mere force of his proclamations: but the fact is altogether different; the chief magistrate never had any power voluntarily to restore or to interrupt trade: it was congress, who, by the non-intercourse law, provided for the prevention of commerce and for its revival. The president had no other power in the case than simply to proclaim that a certain event had happened; the eleventh section of the non-intercourse law then came in, and took the responsibility from him. The event did happen, in the very manner required by the act of congress; but in the sequel, it was not consummated; consequently, the first proclamation of the president was nugatory; and the president, very properly, in his second proclamation, confines himself to the declaration "that the trade "renewable on the event of the said "orders being withdrawn, is to be "considered as under the operation "of the several acts by which such "trade was suspended."

It is not to be expected that congress would ever provide before hand and by a positive law, for the failure of an arrangement of the kind, because that would be to express an opinion of the probable treachery of a foreign government before any circumstance had transpired to justify a doubt: it would also be such an affront as no nation could well overlook. But, if suspicion existed as to the fidelity of a cabinet, congress would take care so to enact their laws as to leave room for the recurrence of such a state of things as they might wish to exist in case their suspicion should be realized. This is precisely what congress did at their session of May last. They cautiously avoided passing any resolution or enacting any law about the matter. Whenever they have alluded to the subject, they have referred expressly to the provisions of the non-intercourse law; and it is remarkable, that in the "act to amend "and continue in force certain parts "of the act, entitled "an act to interdict the commercial intercourse between the United States and Great Britain, France and their dependencies, and for other purposes," the essential and vital provisions of the non-intercourse law are revived against England as well as against France, and it is declared that they "shall continue in "force until the end of the next session of congress" with this single proviso: "that noth-"ing therein contained shall be con-"strued to prohibit any trade or com-"mercial intercourse which has been "or may be permitted *in conformity* "with the provisions of the eleventh "section of the said act." Thus causing the whole question to rest upon the fulfilment or non-fulfilment of Mr. Erskine's arrangements with our government, by referring to the clause of that law in virtue of which the president issued his first proclamation, and by declaring that the renewal of "any trade or commer-"cial intercourse" must depend upon its being "*permitted in confor-*"*mity* with the provisions of the ele-"venth section of the said act." And, as the "*conformity*" was prevented by the British ministry, of course there is no permission to trade with England.

AMERICANUS.

For the Maryland Republican.

THE EXAMINER.

(Continued from our last.)

THUS then is my charge against the federal party, meaning always, when I speak of views decidedly unpatriotic, the tory Stratum, and the ambitious leaders and factious partizans of it, that in their ardor to recover the possession of power, and of *all* power, (for nothing less will serve them) they have determined by every possible method to embarrass and disgrace the republican administration, though at the imminent hazard of destroying the government itself, by breaking that bond of union by which alone it does or can exist. They have acted the part of the *false mother* in holy writ; who was willing to have the child cut in two, rather than to let the true one keep possession of it. They have illustrated the fable of the *envious man*, who, because his neighbour was to share with him, in a double portion, of good and evil, desired one of his eyes to be put out, in order that the other might lose both. They would "overset the table to get at the meat." They would burn the house to force out the tenant. Without a metaphor, they would ruin the country to ruin the republican administration.

And I ask you, my fellow citizens, in the spirit of truth and candor, if this heavy charge against the federalists is not thoroughly established. Try if you can account in a more favourable manner for their conduct. Review the case of Burr: was not his enteprize, to make the best of it, highly dangerous to the peace and welfare of the country? Was it not, consider it in what