

The committee, for that purpose appointed, deliver to the president the following message; which was agreed to, and sent to the house of delegates by Charles Grahame, Esq;

By the S E N A T E, June 23, 1778.

Gentlemen,

ALTHOUGH we do not think ourselves accountable to your house for our conduct in rejecting any bills sent for our concurrence, yet as you seem anxious to know the motives which have induced us to put a negative on the bill, entitled, An act to declare the law, and to amend and repeal part of the act, entitled, A supplement to the act for the better security of the government, and also part of the act, entitled, An act to prevent and suppress insurrections, we have thought proper, in this instance, to gratify your request; and doubt not that you will think our reasons sufficiently cogent to justify the dissent. Before we proceed to enumerate these reasons, it is proper to rectify your state of the question, which, we conceive, does not sufficiently explain the nature of the bill sent to this house for their approbation; but rather seems calculated to impress an idea, that we had refused our concurrence to a law, compelling nonjurors to pay the treble tax imposed on them by a former law for the better security of government, if they omitted taking the oath of fidelity within six weeks after the first day of March last. Were the matter to stand solely on this representation of it, 'tis evident that the time and attention of your house have been engrossed to little purpose, in framing a bill expressive only of what is fully declared by a former act: for if such act explicitly subjected to punishment and disabilities, those who omitted to take the oath within the time before mentioned, for what purpose is a solemn legislative reiteration necessary? The act for the better security of the government contains the following expressions: "That if any person required by this act to take the oath or affirmation aforesaid, and whose name or mark shall not be found subscribed as aforesaid, shall make it appear to the governor and council, within six weeks after the first day of March next, or to the county court of the county where such person resides, which shall first happen after the said first day of March next, that such person is not a person offending against this act, and if, of the age of eighteen years, at the time of such application to the governor and council, or county court as aforesaid, shall take the said oath or affirmation (as the case may be) such person shall not be subject to the said treble tax and disabilities aforesaid; and, on acquittal by the said governor and council, or by the said county court, such person shall obtain a certificate thereof, and be entitled to have his name enrolled in one of the magistrates books as aforesaid; and if such person has been set down on the list chargeable with the treble tax and transmitted to the commissioners, the said commissioners are hereby enjoined, on such person's producing the certificate aforesaid, to correct the said list, and give notice thereof to the collector." By the 18th section of the same act it is likewise enacted, "That every person chargeable with the treble tax as aforesaid, shall be disabled from commencing or prosecuting any suit, in any court of this state, for the recovery of any debt or damages, for any money or tobacco due or owing to him in his own right, or from exercising and practising the trade of merchandise, unless, previous to such suit or merchandising, he shall take the oath or affirmation as aforesaid."

The proposed bill recites, that "Whereas the justices of several of the county courts of this state, misconceiving the meaning and intent of the said act, and the powers to them thereby entrusted, have kept open and adjourned their several courts from time to time, beyond the six weeks after the aforesaid first day of March, limited and appointed for the purpose of taking the said oath and affirming in the words thereof, and subscribing their names thereto, to take, repeat, and subscribe, the said oath, and to affirm in the words thereof." Then follow these expressions: "For remedy whereof, and to declare the law." The enacting clause then directs, that the persons therein described, who did not take the oath on or before the twelfth of April last, shall be liable to the treble tax on all public and county assessments.

The avowed purpose of the bill was to declare and explain the former act, which would evidently influence a determination on the question, respecting the effect of oaths of fidelity taken by persons subsequent to the act for the better security of the government, and prior to passing the proposed bill into a law. Our reasons are therefore applied to the propriety of rejecting a bill having this retrospective tendency.

We conceive the preamble in the bill to be framed on a misapprehension of the act therein referred to. It does not appear to us, that the magistrates have acted illegally, in administering the oath of fidelity to those persons, who were desirous of taking it at their adjourned courts; as such persons were, by this measure, entitled to the privileges of commencing and prosecuting suits, and of exercising and practising the trade of merchandise, from which privileges all nonjurors were excluded under the late act, until such time as they had taken the oath therein prescribed.

As the justices of the county courts do not, from any thing contained in the bill, appear to have exceeded their line of duty, it would, we conceive, be somewhat incongruous, to declare by a public law, that they had, through misconception, conducted themselves with impropriety, or to suppose, from what may have been rightfully done, that they were actuated by reprehensible or sinister motives.

What