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MESSAGE

Of his Excellency the Governor, to the General Assembly of Maryland.

In Council,
Annapolis, Dec. 27th, 1826

Gentlemen of the Senate,
and of the House of Delegates—

We avail ourselves, with great pleasure, of the first occasion we have had to address the General Assembly, the immediate representatives of the people, to express our gratitude for the distinguished proof of confidence, they have been pleased to afford us. Diffident of our abilities, and deeply impressed with the magnitude of the trust confided to our care, we should despair of a successful and satisfactory administration of the concerns of the state, were it not for the [illegible] we derive from your enlightened councils.

As "trustees of the public," accountable for the performance of the high trusts and duties committed to us by the constitution, or devolved upon us by the legislature we proceed to lay before you an account of such of our acts and proceedings, since the adjournment of the last general assembly, as may be interesting to you or the people, our common constituents; and to add such suggestions upon the important interests and concerns of the state, as have occurred to us during the present year, as worthy of being presented to your consideration.

We proceed in the first instance, to give you a detail of our acts and proceedings, under the several resolutions and Laws, passed at the last session of the general assembly, conferring upon us various powers, and devolving upon us a variety of duties, accompanied by such observations on each subject, as seems to us proper, and necessarily connected therewith.

As requested by the general assembly, we forwarded to each of our senators and representatives in congress, a copy of each of the following resolutions, viz. (No 11) declaring "that the congress of the United States, does possess the power, under the constitution, to adopt a general system of internal improvements, by means of roads and canals, as a national measure.' (No. 12,) declaring 'that for the purpose of electing the president and vice president of the United States, the constitution ought to be so amended, that a uniform system of voting by districts, shall be established in all the states; and that the people in those districts shall have the right of voting, directly, for those officers;' and 'that the constitution ought to be further amended, in such manner as will prevent the election of the aforesaid officers from devolving upon the respective houses of congress"—and requesting the said senators and representatives, 'to use their exertions for obtaining the said amendments.' (No. 17) requesting the said senators and representatives 'to call the attention of their respective houses to the superior advantages which the city of Annapolis and its neighbourhood possesses, as a situation for a naval academy, and that they use their best exertions in favour of the establishment of such an institution' (No. 31, with its preamble,) relative to light houses & light boats. (No. 38,) requesting the senators who represent this state in congress, to bring before the general government, without delay, the claims of the state for interest on loans contracted by her for the prosecution of the late war, in the mode they may deem most expedient; and requesting 'the representatives in congress from this state to assist in prosecuting said claim to a successful termination'—(No. 50,) requesting the said senators and representatives 'to use their exertions to have the route examined from Washington city through Fredericktown and Harper's Ferry, with the view of ascertaining the best and most proper location for the contemplated road from Washington city to New Orleans.' No. 53,) 'instructing' the senators, and 'requesting the representatives aforesaid, to support the application of the American Colonization Society to congress for aid and protection' (No. 118,) requesting the said senators and representatives 'to use their best exertions to obtain the establishment of a navy yard in the city of Baltimore.'

The opinions and wishes of the general assembly, indicated by the aforesaid resolutions, doubtless received from all the gentlemen to whom they were addressed, the respectful attention and consideration to which they were justly entitled.

The subject of the resolution, (No. 11.) is so very important, and opens to the imagination such sublime views and prospects of the immense and incalculable benefits, to be derived from the adoption and vigorous prosecution of a judicious system, embracing all those great schemes of improvement, which from their magnitude most appropriately belong to the sphere of action of the general government, (leaving to the respective states, the accomplishment of such local improvements, as may be required by their wants, and, within the achievement of their more limited means,) that we cherish the hope, and entertain the belief, that such a system will be adopted at no distant period

We are aware that the authority over this subject asserted by the general assembly to be constitutionally vested in congress, is denied and strenuously contested by many distinguished statesmen of the day, who entertain the opinion that the power cannot be exercised without a violation of the rights of the states. With all the respect for this opinion that a personal acquaintance with, and the fullest confidence in the ability, patriotism and integrity, of some of those who entertain it, is calculated to inspire, it appears to us, that the power has been too long exercised, and the practice of the government too uniform and firmly settled and sanctioned, both by congress and the people, now to be questioned.

Government ought to be administered upon fixed principles. The good of the country as well as prudence, require that there should be a period when disputed questions, after repeated and thorough investigation, should be put to rest; and we are not without example and high authority for this assertion. That the right of the general government to exercise the power mentioned in the resolutions, has been fully, and ably discussed on various occasions, in congress, and decided in its favour is undeniable.

The national government possesses the power to tax the people to any extent; and shall it be contended, that after having exhausted the resources of the states, (for every object of taxation is within its reach, and many withheld from them,) that it does not possess the power to apply any portion of those resources to the amelioration of their condition, or the promotion of the prosperity of the country, by means of internal improvements?

We yield to no one in respect for, or attachment to, the rights and sovereignty of the states, but we do not feel the alarm nor perceive the danger which is apprehended by some, from the exercise of the power in question. It appears to us, that the states possess ample security against any violation of their rights, in the direct responsibility which one branch of congress owe to them, and the local attachments and feelings of the representatives of the people in the other branch

The great error attending the investigation of the powers bestowed by the constitution on the national government, and what has given rise to a fastidious opposition to the beneficial exercise of some of those powers, is, that it has been viewed as a foreign, distinct and separate government. Were we to look exclusively to the written constitutions of each, the conclusion would be a just one, but our whole system is anomalous—history furnishing nothing analogous to it. The same population constitutes the national government and the governments of the respective states: Hence the improbability that in the interpretation of the powers of the former, the rights of the latter should be overlooked or violated.

If the history of our country from the commencement of the revolutionary war to the present day, did not contradict the supposition of the power of any form of the general government, thus constituted, being exercised so as to oppress the respective states, is not the idea too preposterous to suppose that the representatives from the several states, in congress, should look with indifference upon the exercise of powers, by the general government, under the authority of that body, calculated to oppress the people of the respective states? Would they, as citizens of the United States and component parts of the national government, a tempt to violate their rights, or oppress themselves, as citizens of the respective states?

In the event of a proposition being made in congress, calculated to bear heavily on their constituents, would not their feelings naturally revert to their immediate friends—their homes—and their firesides?

If under the authority, "to regulate commerce," light-houses may be built; sand bars and other obstructions removed, from the mouths and beds of rivers, and sea walls erected—if, in short, it be admitted, that the works of nature may be at all changed, with a view to promote and facilitate the operations of commerce, of war—how can it be denied, that, for the same purposes, roads may be graduated and turnpiked, or intervening mountains cut through to connect water courses?—as is contemplated in that great work, the Chesapeake and Ohio Canal, which is of so much importance in a national, as well as local point of view, and is, at this time, justly exciting an interest so deep and extensive; and which is of such a character and magnitude, as to preclude a hope of its being accomplished by the exertion of individual states.

The board of public works, created at the last session, being charged with the superintendence and management of all improvements to be executed or patronised by the state, and generally, with all the interests and concerns of this great subject, and with the special duty of reporting fully to you, during the second week of your session, all their proceedings—we will not encroach upon their province, by entering into any detail upon this interesting topick, but conclude this brief and general view of it, with an assurance that we are duly impressed with its transcendent importance, and that we shall at all times take great pleasure in co-operating with you in the promotion of all proper objects of improvement, and in carrying into effect, so far as may depend on us, every work that you may authorise and provide for.

The subject of the resolution No. 12, engaged a large share of the attention of both houses of congress, during their last session, and was so far acted upon as to develope such a variety of views and feelings in relation to it, as to render the adoption of any alteration of the existing provisions of the national constitution, in relation to the election of President and Vice President of the United States, highly problematical.

We consider it very desirable that a uniform system of voting for those high officers should be adopted; and we believe the district system preferable to all others: whether the elections shall be made by the people voting directly for those officers, or indirectly, by electors chosen by, and responsible to them, we consider of less importance; as in another mode, the elections will be effective expressions of their will. But we deem it of paramount consequence that the rights of the respective states, as secured by the compromises upon which the constitution was founded, be preserved sacred and inviolate; and to the small states, (including Maryland) particularly that the federative principle upon which the elections are now made, in the event of a failure of the people, in the primary elections to make a choice, be maintained. Adhering to this principle, we esteem it of little consequence, whether the power of contingent choice remains where it is now vested, or, be transferred to some other authority. We believe the house of representatives is as safe and suitable a depository of that power, as any other that can be constituted or provided for, or, any that exist, other than the people themselves.

Whether it would be proper and expedient so to change the constitution, as upon a failure of the people on the first trial to make an election, to have in their own hands, and exercise themselves, the power of making subsequent efforts for that purpose; under all the excitement that such an event will never fail to produce, appears to us to be, at least questionable. And even if the policy and propriety of their having the power in their own hands, was as clear and undoubted, as that it, of right, belongs, to them, to dispose of as they see proper—it is known that the large states will not agree to deprive themselves of the power to exercise the decisive weight and influence of an undivided vote, in the primary elections, without the abandonment by the small states, of the federative principle which gives them equal weight with the large ones, in contingent choice, and making the elections upon popular principles, or, at least, retaining the same relative power and influence in all subsequent trials. It is, therefore, manifest, that little hope exists of the alterations desirable to us being obtained, without too great a sacrifice—without agreeing to others so destructive of our existing rights and power, as to forbid our assent to them.

The constitution of the United States is the work of some of the wisest heads and purest hearts that were ever devoted to the service of any people.

We should be cautious in making changes in an instrument, the result of the deliberations of such men; and which contains more knowledge and judgment in poising and balancing its various powers, so as to reconcile conflicting feeling, prejudices and interests, than is to be found in any other monument of human genius, the annals of the world can furnish.

The foregoing views of this interesting topic, although not very materially differing from, are not in entire accord with those expressed in the resolutions. It is with the greatest respect and deference for the last general assembly that we entertain, & feel it our duty frankly to express them.

The establishment of a Naval Academy, has not yet been provided for. When such provision shall be made, we have no doubt but that the claims and advantages of the city of Annapolis, as a site for its location, will be duly considered and impartially decided upon.

By an act of congress approved the 18th day of May last, entitled, "An act authorising the building of light houses," &c, the wishes of the general assembly expressed in the resolution No. 31, have been in the main complied with.

We caused to be prepared and transmitted to our senators and representatives in congress, such documents as we deemed, (or as was suggested by them to be,) necessary to support the claim against the United States, mentioned in the resolution of No. 38, and we have the satisfaction to inform you that an act of congress was passed authorising the proper accounting officers of the Treasury department to liquidate and settle the claim by virtue of which the sum of $66 563 22, has been allowed and paid to the treasurer of the Western Shore.

In the adjustment of the claim, a wide difference of construction was put upon the act of congress, by the treasurer of the Western Shore, who, by our direction, furnished a statement in behalf of the state, and by the third auditor of the treasury department of the United States, on whom the liquidation of the claim was devolved. The auditor made his objections by way of remarks upon the several items of the treasurer's statement, which were replied to by an elaborate and able argument by the treasurer in support of his statement, and the principles upon which it was founded, as well with reference to the act of congress, as to their intrinsic propriety and justice.

The auditor, it seems, could not be convinced that the act of congress authorised him to allow the claim as stated by the treasurer, and therefore, without contesting its merits, he adhered to his objections and liquidated the claim upon principles which he believed to be prescribed by the act.

Whether a liberal construction of the act of congress would have authorised the auditor to settle the claim upon the principles contended for by the treasurer, we will not undertake to determine. But it appears to us most manifest, whether the fault be in the law, or in construing it, that the state has not obtained, by a considerable sum, the amount of her just and fair claim.

We submit to you, herewith, such documents as we consider necessary to give you a full understanding of the subject, that you may determine whether any, and if any, what steps shall be taken to obtain a further allowance.

Having understood that the attention of the general government has been seriously turned to an examination and consideration of the fitness and propriety of the establishment of a Navy Yard in the city of Baltimore, and believing that the result of the enquiry cannot but be favourable, we look forward with considerable confidence, to the attainment of that desirable object.

Immediately upon the adoption of the resolution appointing "a joint committee consisting of one member from the senate, and two (members) from the house of delegates, to visit the legislatures of Pennsylvania, New Jersey and Delaware, to confer with those bodies respectively, upon the measures best calculated to prevent the absconding of slaves from this state, and of securing their recovery," being informed by the gentlemen constituting the committee, that they would set out without delay upon their mission; we addressed a letter to the governor of each of the said states, a copy whereof is herewith submitted, together with the report of the committee, which has just been received.

By this report and the accompanying documents, we have the gratification to find, that with the legislatures of Delaware and Pennsylvania, the committee succeeded in obtaining the passage of laws well calculated to effect the very important objects of their mission.

The legislature of New Jersey not being in session until lately, no opportunity was offered of making to it, a personal explanation of the purpose of their mission, or of the enactments believed necessary to accomplish them. But they addressed a written communication to his excellency the governor of that state, (a copy whereof is among the documents accompanying their report.) fully disclosing in a lucid and forcible manner, their views of the whole subject, with a request that it be submitted to the legislature; and we entertain the fullest confidence, that that enlightened body will be found animated by the same just & liberal spirit which guided their sister states, and that during its present session, a law will be passed equally satisfactory with those of Delaware and Pennsylvania.

We scarcely know which most to commend, the ability with which the committee supported their application, or the enlightened and liberal spirit in which they were received, and the sense of justice and good feelings that enabled them so fully to succeed in securing the objects of their mission.

By virtue of the resolution No. 22 we selected and employed the Hon. William Wirt, attorney general of the United States and Rodger B. Taney, esquire, to appear to the suits which had been instituted and were pending in the supreme court of the United States, against citizens of this state for arrearages of quit rents claimed by the administration of Louisa Browning, as heir at law of a former proprietary, whilst Maryland was a British province. And we have the pleasure to inform you, that the suit against the venerable Charles Carroll of Carrollton now the only surviving signer of the Declaration of Independence, (by the establisment of which in our opinion the claim was forever barred and cut off,) was brought to an issue in March last and the judgement of the supreme court finally pronounced against the claimant, upon principles that apply to, and protect every other landholder in Maryland. The pretended claim of the representatives of Mrs. Browning, may therefore, be considered as at rest, and the landholders of the state freed from any farther vexation thereby.

The high importance of the principles involved in the claim, as well as its great amount induced us to select two of the most eminent members of the legal profession to resist it; and we were gratified to learn that they fully sustained, on that occasion their exalted reputations.

By authority of resolution, No. 27, Roger B. Taney & Reverdy Johnson, esquires have been selected and employed by us as counsel on the part of the state, to aid in the prosecution of the suit pending in the supreme court of the United States against Alexander Brown, and others, for a violation of the act of assembly, entitled 'a supplement to the act laying duties on licenses to retailers of dry goods, and for other purposes,' passed at December session, 1821; this suit has not yet been brought to trial.

By virtue of the resolutions, No. 29 and 73, we contracted with William D. Beall, George Brown, Isaac Hines, Henry Hobbs, and Joseph Mayo, esquires, for the recording, under the superintendence of Thomas Culbreth, esq. clerk of the council, 'of the papers remaining unrecorded in the chancery office, and which should have been placed on record by Samuel H. Howard, Nicholas Brewer, Jas. P. Heath, and Thomas H. Bowie, esquires, late registers in chancery.' The work is now rapidly progressing, and will shortly be completed; by which a mass of chancery proceedings and papers, that it is ascertained will make upwards of fifty large record books, and from which the title to much real estate is derived, will be preserved.

By virtue of the authority vested in us by the resolution No. 34, we appointed Mr. Washington G. Tuck, to purchase such furniture as was necessary for the chamber occupied by the court of appeals; limiting him in his expenditures to the sum appropriated by the resolution, (which we placed at his disposal.) and requested him, in the execution of the trust, to consult and advise with Thomas Harris, esquire, clerk of the court. Mr. Tuck reports to us that his expenditures have exceeded the appropriation by the sum of $81 39, although he procured such articles of furniture only as were deemed essential to the decent and comfortable fitting up of the chamber.—and being satisfied that no improper or unnecessary expense was incurred, we respectfully recommend an appropriation for the payment of the balance of Mr. Tuck's expenditure.

The resolution No. 34, requesting the president of the United States 'to cause a survey to be made for the purpose of ascertaining the practicability of a canal connecting the Potomac river, or the Chesapeake and Ohio canal, with the Basin of Baltimore both by a route north of the District of Columbia, and through it; and the expense necessary to complete the same on a scale corresponding with that of the said Chesapeake and Ohio Canal,' was transmitted to the president, agreeably to the request of the legislature. And we have much pleasure in making known to you that the request met the favourable consideration of the president and that the survey was promptly ordered, and has been completed under the superintendence of Doctor William Howard, a gentleman eminently qualified for the task, whose report we hope to be able to present you during your present session. When we shall receive this report, we shall then be in possession of surveys of the most important and interesting works, of that character, contemplated in this state. And it affords us great pleasure to inform you that the legislature of Pennsylvania, in accordance with that liberal and enlightened spirit which has always characterised their proceedings, have passed a law since the adjournment of the last general assembly, giving their assent to the act incorporating the Susquehanna and Patapsco canal company; a copy whereof, received from his excellency governor Shultze, is herewith submitted—thus inviting us to extend our facilities of intercourse with the interior of that rich and fertile state, which has already contributed much to the growth and prosperity of our great and commercial emporium.

For the reasons that have already been stated in the conclusion of our observations upon the general subject of internal improvement, we forbear to enlarge, or descend to particulars, on this subject.

The Arms, &c. mentioned in the resolution No. 57, are in a course of repair under the superintendence of the armourer at this place; whose report on the subject is herewith submitted.

We forwarded to his excellency, the governor of Pennsylvania, a copy of the report of the committee of the last house of delegates, relative to leave which had been granted to bring in a bill 'to prevent persons residing out of this state from injuring the fisheries in the river Susquehanna below the Pennsylvania line,' as requested by the resolution No. 64.

Under the resolution No. 78, directing the distribution of the 5th and 6th volumes of Harris and Johnson's Reports, we have caused them to be delivered to such of the authorities and persons entitled to receive them, as have made application therefor.—The second and third volumes of the reports have been completed by the publishers and two hundred copies of each delivered to us. Other volumes will be obtained as they may be published, under a contract made with the reporters by the executive in 1824. No provision exists for the distribution