(XLIIId YEAR.) THE (No. 2155.)

MARYLAND GAZETTE.

THURSDAY, MAY 1, 1788.

To the PEOPLE of MARYLAND.

THE following facts, disclosing the conduct of the late convention of Maryland, is submitted to the serious consideration of the citizens of the state.

On Monday, the 21st of April, the convention met in Annapolis, and elected the honourable George Plater, Esq; president. On Tuesday they established rules for the conduct of the business; and on the same day the following question was propounded to the convention :—

"When a motion is made and seconded, the matter of the motion shall receive a determination by the question, or be postponed by general consent, or the previous question, before any other motion shall be received."

And the following question, viz.

"Every question shall be entered on the journal, and the yeas and nays may be called for by any member on any question, and the name of the member requiring them shall be entered on the journal."

Which two questions the convention determined in the negative.

On Wednesday, the proposed plan of government was read the first time, and thereupon it was resolved, "That this convention will not enter into any resolution upon any *particular part* of the proposed plan of federal government for the United States, but that the *whole* thereof shall be read through a second time, after which the subject may be fully debated and considered, and then the president shall put the question, That this convention do assent to and ratify the same constitution? On which question the yeas and nays shall be taken."

On Thursday, the members who were opposed to the ratification of the constitution, without such previous amendments could be obtained as they thought essentially necessary to secure the liberty and happiness of the people (being confined by the last resolution to consider in one view the whole of the plan of government) stated some of their objections to the constitution.—The convention met in the evening, when Mr. Paca, member from Harford, having just taken his seat, rose and informed the president, that he had great objections to the constitution proposed, in its present form, and meant to propose a variety of amendments, not to prevent, but to accompany, the ratification; but, having just arrived, he was not ready to lay them before the house, and requested indulgence until the morning for that purpose.—The proposal being seconded, and the house asked if they would give the indulgence, it was granted without a division, and they adjourned *for that purpose*.—On Friday, at the meeting of the house, Mr. Paca rose and informed the president, that, in consequence of the permission of the house given him the preceding evening, he had prepared certain amendments, which he would read in his place and then lay on the table, when he was interrupted, and one member from each of the following counties, viz Frederick, Talbot, Charles, Kent, Somerset, Prince-George's, Worcester, Queen-Anne's, Dorchester, Calvert, and Caroline, and one member from the * city of Annapolis, and one from Baltimore-town, arose in their places, and declared for themselves and their colleagues, *that they were elected and* INSTRUCTED *by the people they represented, to ratify the proposed constitution, and that as speedily as possible, and to do no other act; that after the ratification their power ceased, and they did not consider themselves as authorised by their constituents to consider any amendments.*"—After this Mr. Paca was not permitted even to read his amendments.—The opponents continued to make their objections to the constitution until Saturday noon. The advocates of the government, although repeatedly called on, and earnestly requested, to answer the objections, if not just, remained inflexibly silent, and called for the question, that "the convention assent to and ratify the proposed plan of federal government for the United States?" Which was carried in the affirmative by 63 to 11.

The vote of ratification having thus passed, Mr. Paca again arose and laid before the convention his propositions for amending the constitution thus adopted, which he had prepared by leave of the house, declaring that he had only given his assent to the government under the firm persuasion, and in full confidence, that such amendments would be peaceably obtained, as to enable the people to live happy under the government;—that the people of the county he represented, and that he himself, would support the government with such amendments, but without them, not a man in the state, and no people, would be more firmly opposed to it than himself and those he represented. Sentiments highly favourable to amendments were expressed, and a general murmur of approbation seemed to arise from all parts of the house, expressive of a desire to consider amendments, either in their characters as members of convention, or in their individual capacities as citizens; and the question was put on the following motion:

"*Resolved*, That a committee be appointed to take into consideration and report to this house on Monday morning next, a draught of such amendments and alterations as may be thought necessary, in the proposed constitution for the United States, to be recommended to the consideration of the people of this state, if approved of by this convention; and Mr. Paca, Mr. Johnson, Mr. S. Chase, Mr. Potts, Mr. Mercer, Mr. Goldsborough, Mr. J. Tilghman, Mr. Hanson, Mr. J. T. Chase, Mr. Lee, Mr. W. Tilghman, Mr. M'Henry and Mr. G. Gale, were appointed a committee for that purpose."

A division was called for on this resolution, when there appeared 66 members for, and not more than 7 against it,

And then it was resolved, "That the amendments proposed to the constitution by the delegate from Harford county should be referred to the above committee."

The committee thus appointed, and the convention adjourned to give them time to prepare their propositions; they proceeded with every appearance of unanimity to execute the trust reposed in them.

The following amendments to the proposed constitution were separately agreed to by the committee, most of them by an *unanimous* vote, and all of them by a *great majority*:

1. That congress shall exercise no power but what is expressly delegated by this constitution.

By this amendment, the general powers given to congress by the first and last paragraphs of the 8th sect. of art. 1, and the second paragraph of the 6th article, would be in a great measure restrained: those dangerous expressions by which the bills of rights and constitutions of the several states may be repealed by the laws of congress, in some degree moderated, and the exercise of *constructive* powers wholly prevented.

2. That there shall be a trial by jury in all criminal cases, according to the course of proceeding in the state where the offence is committed; and that there be no appeal from matter of fact, or second trial after acquittal; but this provision shall not extend to such cases as may arise in the government of the land or naval forces.

3. That in all actions on debts or contracts, and in all other controversies respecting property, of which the inferior federal courts have jurisdiction, the trial of facts shall be by jury, if required by either party; and that it be expressly declared, that the state courts, in such cases, have a concurrent jurisdiction with the federal courts, with an appeal from either, only as to matter of law, to the supreme federal court, if the matter in dispute be of the value of dollars.

4. That the inferior federal courts shall not have jurisdiction of less than dollars; and there may be an appeal in all cases of revenue, as well to matter of fact as law, and congress may give the state courts jurisdiction of revenue cases, for such sums, and in such manner, as they may think proper.

5. That in all cases of trespasses done within the body of a county, and within the inferior federal jurisdiction, the party injured shall be entitled to trial by jury in the state where the injury shall be committed; and that it be expressly declared, that the state courts, in such cases, shall have concurrent jurisdiction with the federal courts; and there shall be no appeal from either, except on matter of law; and that no person be exempt from such jurisdiction and trial but ambassadors and ministers privileged by the law of nations.

6. That the federal courts shall not be entitled to jurisdiction by fictions or collusion.

7. That the federal judges do not hold any other office of profit, or receive the profits of any other office under congress, during the time they hold their commission.

The great objects of these amendments were, 1st. To secure the trial by jury in all cases, the boasted birth-right of Englishmen; and their descendants, and the palladium of civil liberty; and to prevent the *appeal from fact*, which not only destroys that trial in civil cases, but by *construction*, may also elude it in criminal cases; a mode of proceeding both expensive and burthensome, and also by blending law with fact, will destroy all check on the judiciary authority, render it almost impossible to convict judges of corruption, and may lay the foundation of that gradual and silent attack on individuals, by which the approaches of tyranny become irresistable. 2d. To give a concurrent jurisdiction to the state courts, in order that congress may not be compelled, as they will be under the present form, to establish inferior federal courts, which if not numerous will be inconvenient, and if numerous very expensive; the circumstances of the people being unequal to the increased expence of double courts, and double officers; an arrangement that will render the law so complicated and confused, that few men can know how to conduct themselves with safety to their persons or property, the great and only security of freemen. 3dly, To give such jurisdiction to the state courts, that transient foreigners, and persons from other states, committing injuries in this state, may be amenable to the state, whose laws they violate, and whose citizens they injure. 4thly, To prevent an extension of the federal jurisdiction, which may, and in all probability will, swallow up the state jurisdictions, and consequently sap those rules of descent and regulations of personal property, by which men now hold their estates; and lastly, To secure the independence of the federal judges, to whom the happiness of the people of this great continent will be so greatly committed by the extensive powers assigned them.

8. That all warrants without oath, or affirmation of a person conscientiously scrupulous of taking an oath, to search suspected places, or to seize any person or his property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend any person suspected, without naming or describing the place or person in special, are dangerous, and ought not to be granted.

This amendment was considered indispensable by many of the committee, for congress having the power of laying excises, the horror of a free people, by which our dwelling-house, those castles considered so sacred by the English law will be laid open to the insolence and oppression of office, there could be no constitutional check provided, that would prove so effectual a safeguard to our citizens. General warrants too, the great engine by which power may destroy those individuals who resist usurpation, are also hereby forbid to those magistrates who are to administer the general government.

9. That no soldier be enlisted for a longer time than four years except in time of war, and then only during the war.

10. That soldiers be not quartered in time of peace upon private houses, without the consent of the owners.

11. That no mutiny bill continue in force longer than two years.

These were the only checks that could be obtained against the unlimitted power of raising and regulating standing armies, the natural enemies to freedom, and even with these restriction, the new congress will not be under such constitutional restraints as the parliament of Great Britain, restraints which our ancestors have bled to establish, and which have hitherto preserved the liberty of their posterity.

12. That the freedom of the press be inviolably preserved.

In prosecutions in the federal courts for libels, the constitutional preservation of this great and fundamental right, may prove invaluable.

13. That the militia shall not be subject to martial law, except in time of war, invasion or rebellion.

This provision to restrain the powers of congress over the militia, although, by no means so ample as that provided by magna charta, and the other fundamental and constitutional laws of Great Britain, (it being contrary to magna charta, to punish a freeman by martial law in time of peace, and murder to execute him,) yet it may prove an inestimable check; for all other provisions in favour of the rights of men, would be vain and nugatory, if the power of subjecting all men able to bear arms, to martial law at any moment, should remain vested in congress.

Thus far the amendments were agreed to.

The following amendments were laid before the committee, and negatived by a majority.

1. That the militia, unless selected by lot or voluntarily enlisted, shall not be marched beyond the limits of an adjoining state, without the consent of their legislature or executive.

2. That congress shall have no power to alter or change the time, place or manner, of holding elections for senators or representatives, unless a state shall neglect to make regulations, or to execute its regulations, or shall be prevented by invasion or

* *The member from the city of Annapolis, did not give as his opinion that he was not at liberty to consider amendments, but said he had consulted his colleague, and that his colleague had informed him, the citizens were against amendments.*