

other disabilities, are incapable of such assent, all of whom are nevertheless bound by the fundamental law. A reference to the consequences of considering constitutions as social compact, will demonstrate the absurdity of such a doctrine. A compact, in its usual and legal sense imports a contract between parties creating obligations and rights capable of being enforced. In governments regularly organized, redress is sought for breaches of contracts entered into between private persons, by a resort to tribunals specially appointed for the purpose. But in the case of compacts of government, between parties in a state of nature entirely sovereign and independent of each other, between whom, in the nature of things there can be no common arbitrator, each party is for himself the judge of the nature, extent and obligation of the instrument; and as there is no means of enforcing performance, or of inflicting penalties, when infractions are committed, each necessarily retains the right, at his own will and pleasure, to nullify the agreement, and to absolve himself from its stipulations.

Can it be supposed, that the people of Maryland, in the formation of the constitution, designed thus to rest the permanence of government, upon the caprice or pleasure of any individual citizen? And yet, such is the consequence of regarding as a compact, the fundamental law. "The true view," says Judge Story, "to be taken of our State constitutions is, that they are forms of government ordained and established by the people in their original sovereign capacity, to promote their own happiness, and permanently to secure their rights, property, independence and common welfare."

Again: "It would, indeed, be an extraordinary use of language, to consider a declaration of rights in a constitution, and especially of rights which it proclaims to be inalienable and indefeasible; to be a matter of compact." And again: "A State constitution is no farther to be deemed a compact, than that it is a matter of consent by the people, binding them to obedience to its requisitions; and that its proper character is that of a fundamental law, prescribed by the majority of the people of the State [who are entitled to prescribe it] for the government and regulation of the whole people." To assume, however, that the constitution is a compact creating obligations, binding upon the people, and capable of being enforced, it remains to be seen whether it contains a single provision, which, by fair construction, imposes restraints upon the sovereign and inherent power of the people.

By the constitution of Maryland, plenary powers are conferred upon the General Assembly, limited only by the nature and objects of the government, and by express restrictions upon the legislative authority. The 2nd article of the Bill of Rights, which declares "that the people of this State ought to have the sole and exclusive right to regulate the internal government and polity thereof," is at once an assertion of the inherent right of the people and a negation of the power of the Legislature, to alter the organic law. Had it been left to stand alone, the constitution could not have been amended in any other manner or by any other authority, than that of a convention of the people. The framers of the constitution did not fail to foresee, that in its practical operation changes affecting either its mere machinery or some one or more of its details, might become occasionally necessary, not of sufficient magnitude to require a general revision of the instrument, or to justify the expense or delay incident to the assembling of a convention.

For this reason, doubtless, the power to amend the constitution was conferred upon the General Assembly. Sensible, however, of the tendency of that body to enlarge its authority, even at the hazard of trucking upon the fundamental law, the convention