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National Intelligencer.

"CONNECTICUT AS TO CONSTITUTION.—For the declaration of this truth, a respectable citizen has left his office, with four companions, which would not whether have called, his life.—There is something so tragical in the effects of this profession, that, judging of the feelings of others by our own, we anticipate from the people of Connecticut a deep and deliberate attention to events so powerfully calculated to awaken sympathy, and to anticipate alike an award, which, while it embalms the memory of the deceased martyr, will confirm to posterity FAME the name of those who have produced this mournful catastrophe.

Mr. Judd, we are told, was one of those address whigs, who expected his life to defend or our rights in times which shew man's frailty. The independence, which he thus in unison with others acquired for his country, he dared on a recent occasion to affirm, but dared not the chastening of federal vengeance has fallen on his head; and for this he might have lived to thus day the ornament of his country—But a superintending power has permitted him to be numbered with the dead. Be it so. He has fallen in an honorable cause; and human nature forcibly flies to its breath there, if the sentiments of patriotism, which call him hither, do not arouse the spirit of liberty that flumbers in Connecticut.

[The following is subjoined to the address, which for its better understanding, we insert first.]

On the evening of Tuesday Nov. 13, 1804.

LIED AT FARMINGTON,

MAJOR WILLIAM JUDD, Aged 63.

MAJOR JUDD, at the time of receiving notice from the general affemblay, was out of health, but hurried to the chairman of the convention, and being by notefellow a lawyer, he decided on making his own defence. He accepted, exertion, in preparing for this, fo difficult him, that loon after his arrival in New Haven he was confined to his bed, and prevented from making his defence. After a partial recovery, he propofed to his friends, his with to publish his brief or fummary of defence, which being judged advisable, he furnished them with his ideas on this fubjeft, which being reduced to writing, the numerous and proof fheets were fhewn to him as as fait as they were prepared, and he approved of them, remarking that his weakneis did not permit a clofe examination, but that his time was fhort and that he did not with any thing to be publifhed, which fhould be incorrect—The work being nearly finifhed, he having requefted his friends to hold the completion of it, left New Haven poftfeftivity morning, and having arrived at his houfe, expired at 11 o'clock in the evening.

The mournful event has not prevented the ifhing his addreffs. Thefe are fo you, the people, the laft work of a refpectable individual, lately of your number, of a man, who forced for a long time, in the characters of a jullice of the peace, of an officer in the revolutionary war, of a repefentative of his town, of mafter of the grand lodge of Connecticut, and of chairman of the republican convention.

In the courfe of a bufy life, fpent in political counfels, and in fcenes of danger at the bar, Major Judd had the means of understanding the principles of our revolution, and the liberty and true intereifts of this ftate. With unfeigned gratitude and fincerity, he afferted his political opinions in oppofition to the powers of the ftate, and this fall opinion, for which he was removed, was expreffed at a time, which he had ftrong pofitentiaries that his end was near. The with anxious to place before the people the reafons, which fuppofed him in the feftination fhould be the caufe of the conftitution of civil government.

Major Judd, after feeing fuch a return of voice for efteftion to Mafifon fates, is convinced him that the republican ticket would prevail in that ftate, remarked: "If Connecticut could be brought to a true fenfe of liberty he fhould feel refigned to depart in peace." He did not live to fee this day. The fall thing which he felt on this fide the grave, was a mournful from effect, declaration, of the truth of which, he had no doubt—but thousands will live to fee the time, when "the enjoyment of liberty, and even its fupport and preferation, fhall confift in every man's being allowed to fpeak his own fentiments." *New Haven, Wednesday morning, Nov. 14. 1804.*

WILLIAM JUDD'S
ADDRESS
TO THE PEOPLE OF THE STATE OF CONNECTICUT.

On the subject of the removal of him himself and four other Justices from office, by the General Assembly of said state, at their late October Sessions, for declaring and publishing their opinion that the people of this State are at present without a Constitution or civil Government.

"The enjoyment of liberty, and even its fupport and preferation, confifts in every man's being allowed to fpeak his own thoughts, and to lay open his own fentiments."

Montefquieu's Sp. of Laws.

PREFACE.

1. Importance of this fubjeft has excited in the public mind fo much intereft and curiofity, that I am induced to prefent you at this time, under the auffpices of the general committee of Republican Citizens, with a fketch of what which I had prepared for my defence, and which want of health prevented my delivering; and to connect with it fome notices of the trial, and fome reflections and inferences, defigned to lead you to a clear perception of your rights, and to the importance of fecuring them by a conftitution of civil government.

You will herefore receive a full account of the trial without any omiffion on both fides; and it is hoped that this fammary will enafle a with in every reader to eftimate fairly of the fubjeft. WM. JUDD.

New-Haven, Nov. 8th, 1804.

AN ADDRESS, &c.

FELLOW CITIZENS,

HAVING, fome years, believed the ftate of Connecticut to be without a conftitution of civil government, and fo publifhed and afferted, I fhall, to the people to be indifpenfably neceffary do the prominent and fecurity of their perfonal freedom and happinefs, I did, with many others, on the 29th of Auguft laft, publifh the fame opinion, which but by this we did not mean to declare, that this ftate, or without a government; or that the government of this ftate is an ufurped government, for we hold, that a conftitution and a government are two diftinft things; which is rendered indifputable by the fhifts, that all nations on earth have governments, while few have conftitutions.

In order to be perfeftly underftood, it is necefiary to determine the definition of words, where the fame words have been ufed to fignify different things. The firft employ then is, what idea do the people of the United States affix to the term *Conftitution?*—If thofe, who defire to have a conftitution, mean only that we have a form of government, that this ftate fhould an after this form of govt. it fhal ftyle part of the legiflature conftitutes what they are pleafed to call a conftitution, I fhall indeed be well difpute with them about facts, our controverfy is merely about a name. If our conftitution, fays a conftitution, and a form of government in doftor Blackftone, is fo well underftood by the people, we can only fay, that their idea of a conftitution is different from that generally entertained by the people of the United States. But before we give our idea of a conftitution, let us hear what doftor Blackftone fays of the conftitution of England. Speaking of the Parliament, he fays, "It has fovereign and uncontrollable authority, in making, confirming, enlarging, reftraining, abrogating, repealing, explaining, and expounding of laws, concerning matters of all kinds, whatever, ecclefiaftical or temporal, civil, military, maritime, or criminal: this being the place where that abfolute power, which muft in all governments reide fome where, is intrufted by the conftitution of thefe kingdoms. All ftatutes and gloffes, decrees, and rendies, this tranfcend the ordinary courts of the law, are within the reach of this extraordinary tribunal. It can regulate, or new model the fucceffion to the crown; it can alter the eftabliffed religion of the land; it can change and create afreffh even the conftitution of the kingdom and of parliaments themfelves, and, in fhort, do every thing, that is not naturally impoffible; and therefore, fome have not fcruples to call its power, a power rather too bold, the omnipotence of parliaments. True it is, that what the parliament doth, no authority upon earth can undo.

"It muft be owned, that Mr. Locke, and other theoretical writers, have held, that there remains, fill inherent in the people, a fupreme power to remove, or alter the legiflature, when they find the form in which it was conftituted fo ill regulated in them; for, when fuch truft is abufed, it is thereby forfeited, and devolves to thofe who gave it. We have ever juft this conclufion from this theory, we cannot reafonably adopt it, we take any legal fteps for carrying it into execution, under any difpenfation of government at prefent actually exifting."

Having cited an authority fo refpectable as doftor Blackftone, which fhows that in England a form of government is called a conftitution, let our opponents, if they pleafe, with a confiftency, the opinion of this learned writer on this fubject; but let them confider, that thofe who believe with him, that a legiflature can invefl themfelves with that power, which Blackftone fays, in all governments reide fomewhere; that fuch a legiflature can change and create afreffh, even the conftitution of the kingdom and of parliaments themfelves, muft, to be confiftent, alfo rely on the following ideas, characters, viz.

1. That the principles of our revolution were wrong; for, in thofe principles it does not reide in the people; that Sidney, Locke, Hampden, Franklin, and all the patriots and ftatefmen who conducted our revolution, were not only in a moral, but a political error, in fpeaking the tranfmiffable doftrine, "that the fupreme power does reide in the people, and not in the government or legiflature—that thefe eminent men have increased the inveterate prejudices of all the blood and treafure fpent and wafted, in the accomplifhment of our rebellion revolution—that the people have cafe for the government, and not the government for the people—that there is nothing ftatutes, that the people may make and alter, and conftitute and abrogate, at will. That the moft material principles of our declaration of independence, which we afferted Congreffed to be felf-evident truths, were untrue—that the people of thofe United States, who have made and adopted the firft conftitutions, and have declared that the right of felf-government belonged to themfelves, were fools or knaves; that the conftitutions of the United States fhould not begin with, We the people, and ought not to have been offered to the people for their approbation; for, fays that it is good for nothing; that, to be valid, it fhould have been made and imposed upon the people by fome old government under the confederation—that the conftitutions of the United ftates fhould have been made and adopted by their refpective legiflatures, which exifted before the conftitutions were made—that the legiflature of this ftate fhall not, when it very ignorant and foolifh, to declare, "that the people of this ftate, being by the providence of God, free and independent, have the right to ordain fuch form of government, fhall feem, as a free, fovereign and independent ftate;" that, in ftatute, the legiflature fhall themfelves ever had correct ideas of government.

Having thus fhown into what abfurdities the doftrine of Blackftone, and other advocates of legiflative and uncontrollable power, would lead thofe who believe with him, it is now neceffary to lead more time to fhow that we had conftitution, has been ufed in Ancient country, when applied to civil, military and corrupt governments, to mean fomething quite different from what we in the United States underftand by the fame words.

Though there may be among us, ariftocrat, defpotic men, who fecretly wifh to affume to themfelves the fupreme power of this ftate, and to make the conftitutions, that whichever, defpotic power, which muft in all governments reide fomewhere; yet we prefume that moft have directly away this with, for that they would expofe, to ridicule in the world and themfelves to the abhorrence of the great body of the people. We may therefore without rifk of contradiction, affert the following propofitions, viz.

1th. That the fupreme power of this ftate, which includes in it the power of making and altering conftitutions at pleafure, is vefted in the people there in, that is, do every thing, that is not naturally impoffible; and therefore, fome have not fcruples to call its power, a power rather too bold, the omnipotence of parliaments. That it is, that what the parliament doth, no authority upon earth can undo.

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"We defy our opponents to contravert or deny thefe propofitions." We think no one dare advance the doftrine of Blackftone when applied to this ftate, or deny to the people the right of felf-government. Thefe propofitions we repeat now to bear in mind, as we fhall have frequent occafion to refer to them, confidering them as a concovertible truth, and highly important to the fubjeft.

Having fhown what cannot with reafon be called a conftitution in this country, we will next ftate what we mean a conftitution, as generally underftood by the people of the United States.—A conftitution is an act proceeding from the fupreme power of a ftate, impofing upon that power, and upon that alone for its validity, it muft neceffarily be above the power of the ordinary legiflature. It may be defcribed to be an act proceeding from the people, regulating the conduct of their rulers and legiflators; defining and limiting the powers of the rulers, and the rights of the ruled; prefcribing the rights which they refign, to all thofe which they retain; defining the powers and duties which are conferred upon, and required of the fefpective branches of government. It ought to receive the fame refpect from rulers and inferior legiflatures, as the ftatute laws do from the ruled or people. It ought to be as far above the controul of rulers, as ftatute laws are above the powers of any individual.

We are confirmed in the belief, that the above definition and defcription of a conftitution is correft, by referring to the ufe of the people of the United States, and of thofe feveral individual ftates, who have refpectfully made and adopted conftitutions for themfelves. We are now to enquire, Whether this ftate has any conftitution, or whether it is only a conftitution, in name and fhadow? The poffibility of a rational doubt on this fubject fhall with refpect to the United States. Miffachufets, New-Hampfhire, and Rhode Ifland, are only inferior; and if any fhould arife, the inftances would be eafily produced, and all doubt would be at an end: But in Connecticut, it has for many years been queftioned, whether we have a conftitution, and the negative has often been declared.

In the general affembly of this ftate, at their October Sefficn of 1785, the honorable John Dickinson, then Speaker, moved for liberty to bring in a bill to refture the number of reprefentatives to two from each town. This was oppofed to by judge H. Ellsworth, who afferted, that it was not in the power of a conftitutional qualification. Mr. Dickinson replied, that "I am bound to act according to my conftitutions." I have no conftitution but the laws of this ftate and the charter is not the conftitution—by the revolution that was abrogated—A law of the ftate gave a fubpoenan to compel the attendance of witneffes at a fpecial trial, which fhall be valid, any alterations made by a later act will affe-ft it, and if, they have no conftitution, to defined as to preclude the legiflature from exercifing fuch a power, and to fecure the good of the people." Judge Ellsworth, Mr. Dickinson, Mr. Jonathan Wafhworth, of Hartford, feconded Mr. Dickinson's motion, and afferted, that "The bill is not arbitrary; it is no encroachment upon the liberties of the people—The fame law of this ftate, a conftitution can alter it at pleafure." (referring to Mr. Dickinson's ideas of conftitution, that we have no conftitution but the laws of the ftate.) General Huntington, of Norwich, and in my opinion, the affembly were of the fame ideas, that the laws of this ftate were conftitutional, it was negatived by a fmall majority.*

Since the declaration of independence in 1776, which annulled the charter, thousands in this ftate have believed, we had no conftitution. Before the 29th of Auguft ith, we had never heard of any thing, which was claimed to be a conftitution that was ever adopted by the people; we knew indeed that our legiflature had declared, that the form of government contained in the charter fhould be the civil conftitution of the ftate; we alfo knew that this was no more than a ftatute law, which might at any time be repealed by any to fi quenting ftatute.—We alfo knew, that the people poffefled the fupreme power, they and they only had the right and power

* See the Connecticut Magazine Nov 2. 1786 p. 297.

* Ibid. Com. Vol. 1. p. 151. 152.

to make a conftitution, which fhould limit and define the powers of the legiflature, which ftatute law legiflature could not repeal.

Within a few weeks, fellerfhifts have found an old agreement of a few inhabitants, feftled at Hartford, Windfor and Weathersfield, and while their friends were undefined, while New-Haven and its vicinity conftituted a diftinft colony, and had no concern with this agreement; and we are now told, "here is fome conftitution in writing made and adopted by the people."

It would be fill more tedious reflected for fuch miferable pretences to authority, to bellow upon it any fi-gious attention, but it does not fhew the difficulty, it could make no conftitution for them felves, but having the power of fgovernment. The colony of New-Haven never agreed to this compact. But we are told, that "it fhe claimed a tranfcript of the old agreement." Thofe, who have form their two inftruments, muft be conftrued the fulfilment of this affertion. But, fuppofe it to be true, it does not follow that the colony of New-Haven affented to this agreement, for they being a diftinft ftrift, and