by a gentlemen on our side of this question,) the portion of Roman history selected by the honourable gentleman from New York for this occasion, was ably and eloquently recited by him; yet, I must be permitted to say, that it was ill-placed, and without any just application to the subject; and I will endeavour to vindicate myself, in respect to the vote I mean to give upon this amendment from the direful stigma, which the *conclusion* from his remarks might cast upon it. I entertain as great hatred of arbitrary power, exercised in any form and upon any pretext, as that gentleman: and it is precisely because I abhor tyranny, in every shape, that I would sedulously guard the citizens of this country from oppression, and would secure every individual against, or indemnify him for all undue sacrifices, to the public. I would, sir, resist as firmly as any man in this nation, the ambitious stride of a Dictator; and whenever the semblance of that kind of danger shall appear—whether it come as a speck in the Eastern or Western horizon—let the gentleman sound the alarm and I will plant myself by his side, and resist with him.

Although, sir, I will not undertake to impute to the gentleman from New York the *bearing* which has been attributed to his remarks by a member from South Carolina, yet I must endeavour to redeem myself and my vote from the effect of his conclusions.

[Mr. STORRS rose to order; and submitted to the Chair whether it was in order to answer in the House arguments offered in the Committee of the Whole.]

The SPEAKER said it was not strictly in order.

Mr. KERR. I will then, sir, proceed without any further particular reference to that gentleman. I meant nothing *personal* though I acknowledge it was my special object to reply to his argument, and to deprecate every effect of it. I will go on to argue this point as one not inferior in importance to any which is to be agitated in the councils of this nation. The question has gone forth to the People, and you cannot now stop the current of the public mind upon it No matter how needlessly it may have been brought up; no matter what disavowals or admissions gentlemen may now think it wise, or prudent, or liberal, to make; the question has been raised —Whether slaves are property?—not in those general terms, I admit; but whether they are property in the view of this General Government, insofar as it may have power to affect them in certain exigencies of State, and in which the owner is to be indemnified for any loss or injury sustained by him thereby. And it is our solemn duty to meet and to decide it on the claim of the individual now petitioning for redress. It is because I regard this question as vital to the interests of a large portion of the citizens of this country, and of those too, whom I have the honor to represent, that I was opposed to the recommitment of the bill, and now advocate a decided vote in favor of this amendment.

Gentlemen now say, (some of them at least,) that they do not deny the general proposition that slaves are property; yet they do contend that, *pro hac vice*, they are not property, and that they are not to be considered as such, when taken and lost or injured in the public service. Here then is the issue:—We aver that slaves are property; so declared by law, and so held in the view of the Constitution. It is the report of this committee with the bill, which will make up the record of our judgement here; and if you had permitted this amendment to be dropped, because of the insignificant amount of the claim of Marigny D'Auterive, or now reject it, you establish a precedent, to be quoted on all future occasions, against the most important claims, and against redress for the most serious individual losses: and I have no doubt it would be set up by some as a solemn decision on record, that slaves are not property,

Although I am not now, it seems, at liberty to remark on what gentleman have said before the Committee of the Whole, yet I will proceed, and I will suppose arguments which may have been used or might be set up; I will imagine reasons, but refer to no names. There is no other course left us for coming to the point. I repeat, sir, that this is a question of serious import and I am for meeting it *in limine;* and with my friend from Alabama, who offered his opinion in the beginning of the debate, I say now is the proper time to have it settled and put at rest.

Many observations have been made by gentlemen in this House, to do away an impression that they would in any manner impugn the right of property in slaves; & it has been said that such a question will never be stirred until 'some bold, bad man,' shall raise it for the purpose of his own ambition. I feel happy in believing that this bold, bad man, has not yet found his way into this House; but I have made some note of the opinions and dispositions of men in different quarters upon this subject. Not alone in the East, or in the North, but in the middle States—aye, in the South, too, even without the instigation of that ambition which has been assumed as the only motive to it—bold, bad men, have had the folly or the wickedness—call them fools or knaves, if you please, (as they have been so denounced by a gentlemen from Virginia,) to avow and maintain that slaves are not property and that all such pretended rights ought to be abolished. I trust that men of this description will be long kept from this place; but there is no question they have been seeking by stealthy steps, to make their way into the State Legislatures, for the express purpose of stirring by slow degrees the question of slavery and in due season, the solemn one of universal emancipation. You may call such people fanatics, hypocrites or knaves, or by whatsoever other epithets of reprobation you please, but all the while the fatal consequences of their principles and their movements, may spread and be felt in every part of the country. If such a character should ever show his face in this House I trust there will be always here, men of firmness and talent to make him *toe the twig* and avow himself clearly, so that he may be held up to the scorn and detestation of every good man in the nation.

I confess, sir, that being little accustomed to address the House, I have felt on this occasion much embarrassment: for intending more particularly to reply to the remarks of the honourable gentleman from New York, and to plant myself against the efficacy of that Roman story which he had so eloquently narrated but which he forbade me to touch, I have been obliged to turn the current of my thoughts, and have deviated into too many general observations. Sir, with whatever eloquence and force, and solemnity, passages of history may be recited here to warn us against future tyrants who may rise up amongst the People of this country; with whatever ingenious dress the sophistry of gentlemen may display itself, relying on the supposed ignorance and want of intelligence in this House, to detect what a 'pigmy's straw can pierce,' every member must be satisfied of the importance of this question, as to the security of the rights of private property, in general, though now presented in the humble claim of Marigny D'Auterive.—The importance of the general principle in controversy, is the only justification for the long arguments used on this occasion, though I think that the claim is substantiated by the plain and clear principles of law.

Gentlemen here say that they do not deny the right of property in slaves; but the report of the Committee does give color to, and in effect declares the doctrine to a great extent, and in so much destroys the rights of owners. They aver in effect that as to the purpose in view, slaves are not property, or are not to be so considered.—[Mr. K. here read the report of the Committee of the present Session, & proceeded.] I will not trouble the House with reading the report of January 1826, referred to by the present Committee, and adopted by them as it must be familiar now to every member; but I will assert that the foundation of the report is an actual denial of the right of property in slaves. They say that slaves have not been put on the footing of property, and paid for when lost to the owner in the public service, and they report that this petitioner ought not to have relief. No matter how you disguise it, common language will be understood by the People, and they will consider a rejection of this amendment as a decision against the right of property to this extent: for the Committee do aver, that, as to any claim to compensation for injury done to a slave taken for public purposes, such slave is not considered as property, and therefore not to be paid for. Now, sir, this is the very reason why I would now decide at once that they are property, and so to be considered, and settle the question forever I stand upon the ground that slaves are property to all intents and purposes, and should be paid for as such, like every other species of property. I will not take upon myself to lay censure on an honourable Committee of this House; but I must say that all the excitement which has been exhibited on this occasion, is owing to the mistaken views of their report.

If slaves are property—as admitted—why shall they not be considered as such? I will put the absurdity to this house: What is that which is property and not to be considered such? Such refinements are not for us, sir. If gentlemen knew how this kind of thing is felt by those more immediately concerned, they might excuse my earnestness If slaves be property, why should they not be so considered? These are convertible propositions; and they are property of a kind the most valuable and most exposed. Has any direct reasoning been offered, on general principles, or from the Constitution to prove that though slaves are property they are not to be considered such? Not a scintilla of reason has been presented to support the position. The only thing like argument which has been attempted, is the statement of the gentleman from Ohio, (Mr. Whittlesey) that it has not been the usage of the Government to pay in such cases; but all the instances he has cited have been shown to be inapplicable to the present. If they were applicable, I would on that account, call upon the House now to come to a direct decision in this case, and settle the true principle. It has been urged that, because the Constitution of the United States, with certain views, considered slaves as persons they are but a qualified property, and therefore not to be paid for. You may seize the property for the public use,—deprive the owner of the services of his slave, and carry him into danger even of the loss of life and if he be injured or destroyed, you will not pay! I will tell gentlemen in a word why slaves are property: they are such in respect of the right of the owner to sell them; not like the relation between master and apprentice, or father and son, where there is a contract or a right to the temporary service—but it is the absolute power of disposing of the slave altogether that makes him property. Again, sir, the owner of a slave pays a tax on him, as has been before enforced in this debate; and that is the peculiar badge of private property in relation to the government. The slave was property, sir before this Government was formed—was such under the laws of the States, and was so declared by them, as he had been held by the inhabitants of the provinces before. This General Government found slaves the property of the citizens of the States, and its power cannot impugn the right. It shall not define property, but must take it as it was, and construe the Constitution which enjoins compensation for it when taken for public use, with reference to what is property in the States. If this Government takes slaves for the public use, in any emergency it can only touch them as the property of the owner; not as citizens, for they are not such; and they cannot be enlisted as soldiers or enrolled in the militia. They cannot be enlisted because they are slaves and cannot contract; and they cannot be enrolled in the militia, because the fundamental militia act, of 1792, excludes all but free white males. An attempt has been made to do away this right of property by comparing slaves with apprentices; but they are citizens, and participate in the rights and burthens of the Government and are not property. The force of this suggestion, however, has been triumphantly put down by the gentleman from Louisiana by the brief answer that, if there were any analogy, it might prove that the master of an apprentice was also entitled to remuneration for his loss, but not that the owners of slaves are not so entitled.

Not a single case has been presented from the acts of Congress, to shew that any principle has been established against allowing compensation for the loss or injury of slaves taken for the public use, without the contract of the owner. All the cases cited were instances of the voluntary risk of the owners, except that of *Purkill*, whose slave, whilst impressed into the public service, was supposed to have contracted a fatal disease by working in the mud, and the claim for remuneration was rejected by a Committee, on a nice distinction between direct and consequential damages.

The gentleman of the Committee, in this case, have kindly and humanely suggested, as the best scheme for obtaining compensation in these cases, to provide for placing slaves on the footing of a militiaman. I now, sir, enter my solemn protest against this suggestion, as I consider it an impeachment of the right of the slave-holder, under the existing Constitution and Laws: for these provide for the case sufficiently—nay, expressly. Our slaves are property, and not citizens, and I will not consent to place them on the ground of free citizens. Such a scheme is directly against the policy of the General Government, as I have stated, and against the policy necessary to the salvation of certain States, which is to exclude them from the use of arms. And as it runs counter to the feelings of Southern men, so it is mockery of justice as a remedy.

But, it has been contended that there is no constitutional provision, nor any existing law, to authorize the Government, or its agents, to take private property for the public use, without a previous contract, and that, even in the exigencies of war, neither the Government, nor its agents, can seize upon a slave, in a case of imminent public peril, or necessity; and we are warned against recognizing the lawless acts of officers with epaulettes on their shoulders, lest it lead to tyranny. I would guard, sir, with as much care as any man, against the slightest infringement of individual rights; but this is a national question, which involves the essential means for the security and safety of this whole People, who must in time of war, look to this Government for protection. In whatever unpopular light some gentlemen may attempt to place this necessary power in time of war, I am of opinion that the Government may be sustained, in the imminent perils of war, and for the public safety, to seize upon such private property as the exigency of the case demands. When the constitution was formed, it did not profess to provide for every case, which no law can do: many things were left to the pre existing principles of Government; which were known and established. The fundamental laws of society, in every regular Government, provides for the case in question; and the 5th article of the amendments to the Constitution is only declaratory of the rights of the citizens to just compensation, and affirms the existing power of Government. It is the rock of our salvation, as it is the means of general protection, under this Government, in cases of extreme public danger This *dominium eminens*, or *transcendental propriety*, or power, is necessarily incidental to Governments of every form, and it is most essential to a Republic, wherein the general good and public safety are to be always provided for; and in *extreme* cases, in which alone it is to be exercised, the *necessity* of seizing on private property must, for the time, be judged of by the Government, or its officers. The power rests on the imminent necessity of the case. I will not cite authorities here, for these principles are mentioned and stated by all the writers on political law. But gentlemen call for a previous special law to be passed. Now, sir, put the case to a Committee, or to any member of this House, and either the one or the other will tell you, that, for exigencies so various, no previous law can provide. Therefore, when, under this eminent power, the property of an individual has been seized by this Government for the public safety and use, (as acknowledged,) let him not be told that he must go to the EPAULETTED gentleman for his damages in trespass.

I will, Sir, put one case: a private dwelling is on the point of being taken by an enemy, which might give him a dangerous foothold, and our Army should find it essential to its safety to drive out the inhabitants—though free citizens—and occupy the building, or, even for the salvation of the People from a conqueror, to raise it, with all its beautiful gardens and improvements, to the ground. The act is of direful necessity; but such like cases are put and recognized by the writers to whom I allude. And what, Sir, distinguishes this of ours from other Governments, but the better security which is afforded by it to the liberties of the citizen? And will you take away from it a needful power—one essential to the protection of the People in a period of war and danger—because, possibly, at some period, it may be abused? Shall we resign the essential means of the public safety, from a fear of the terrific ghosts of a Pompey or a Cæsar? Is it really expected, Sir, that these shadows will alarm the minds of a free and enlightened Republican People? Who are we, Sir, to whom these arguments are addressed? the Representatives of that People, presumed to know their rights, and to be always ready to guard them. And we are told that we must suffer the Government to be destroyed, or the People conquered, because there is no express provision in the Constitution for using private property for their safety, in cases of great necessity; and that, because, perchance, in some future age, a tyrant may rise up amongst us, we must at once lop off the strongest arm of our security.

I will forbear further remarks, and will only add as to the many admonitions against an indulgence in warmth and feeling, that it unfortunately happens that all the cause for them is on one side, not on the other. Those who are interested immediately against the destruction of the individual rights of this species of property, are they who ought to speak and demand security for them. If the claim of this petitioner is supported by proper proof—which now is not denied—I humbly trust that the grounds and principles of the amendment will be recognized by a solemn vote of this House, and that he will not be turned away by loose declamation, not applicable to the subject.

LEGISLATURE OF MARYLAND.

HOUSE OF DELEGATES.

THURSDAY, Jan. 24.

The house met. Were present, the same members as on yesterday except the honourable the Speaker, who left the seat of government this morning for the purpose of visiting his family.

Whereupon, on motion of Mr. Teackle the house proceeded by ballot, to the choice of a Speaker pro tempore. William Potter and Archibald Lee, esquires, having been severally nominated for that office, and the ballot box being prepared, the members deposited their ballots therein; when upon examination thereof by the chief and assistant clerk, it appeared that of the sixty seven ballots taken, Mr. Potter had received forty seven votes, Mr. Lee had seventeen votes, and that there were two blanks and one scattering.

Mr Potter was therefore declared duly elected the Speaker of the House of Delegates, pro tempore; and being conducted by Messrs. Lee and Banning to the Speaker's chair, he took his seat accordingly. The proceedings of yesterday were then read.

Mr Hooper, chairman of the committee therein mentioned, delivered the following report:

The committee to whom was referred the bill from the senate entitled, An act for the benefit of William W. Whittington. Charlotte Whittington, John R. Whittington and Robert H. Whittington the infant children and heirs at law and representatives of William Whittington, late of Worcester county, deceased, beg leave to report—that they have had the said bill under consideration, and are of opinion it ought to pass.

Mr. Gough, chairman of the committee therein mentioned delivered the following report, accompanied by the bill therein referred to entitled An act for the relief of Thomas D Singleton; which were severally read the first time and ordered to lie on the table, viz:

The committee on insolvencies, to whom was referred the petition of Thomas D. Singleton, having had the same under consideration beg leave to report—that it appears to your committee by the petition of the said Thomas D. Singleton that he is precluded from the benefit of the insolvent laws of Maryland, for the want of citizenship, or the necessary previous residence within the state of Maryland, for no other cause whatever, and that the apparent absence of all fraud, or intention on the part of the petitioner to evade the payment of his debts by coming into the state of Maryland, render it just that the general prerequisite of residence for two years within this state should be dispensed with.—We therefore ask leave to report the accompanying bill.

The house then adjourned until tomorrow morning ten o'clock.

FRIDAY, Jan. 25.

The house met. Were present, the same members as on yesterday. The proceedings of yesterday were read.

Mr. Dennis presented the petition of William A. Schoolfield, of Somerset county, praying that a law may be passed requiring the judge of the land office for the eastern shore to direct the register thereof to supply an omission in an escheat warrant issued and executed in relation to certain land therein mentioned, and to issue a patent thereof to the petitioner; and the petition of Joseph Handy of said county, counter thereto; which were severally referred to Messrs. Dennis, Teackle and Donoho.

On motion by Mr. Stuart of Baltimore it was

Ordered, That the committee on lotteries be instructed to inquire into the expediency of regulating, within the state of Maryland, the sale of tickets in foreign lotteries not authorised by the laws of Maryland, upon the payment of a per centage on said tickets, to be paid to the lottery commissioners, whose duty it shall be to stamp or countersign said foreign tickets; and that said committee be instructed to bring in a bill repealing all such parts of the existing laws, as in the opinion of said committee have caused the failure of revenue from state lotteries.

On motion by Mr. Tilghman, the following Orders submitted by him for consideration, were read:

Ordered, That the cashiers of the respective banks in which the state is a stockholder, forthwith report to this house, whether the note or notes of the director or directors, appointed on the part of the state, now are, or have been under protest during the last year.

Further Ordered, That the chief clerk of this house forward immediately by mail, a copy of the foregoing order to each of the said cashiers. When on motion by Mr. Thomas of St. Mary's, the first of said orders was amended by adding at the end thereof, the following words, "and if so, under what circumstances."

On motion by Mr. Thomas of Frederick the said orders so amended were then laid upon the table.

The clerk of the senate returned the bills sent to that body for concurrence of the following titles:

An act to confirms the proceedings of the Justices of the levy court of Somerset county. And,

An act to alter the present mode of appointing the justices of the levy court of Anne Arundel county, so that each election district and the city of Annapolis may have one member.

Severally endorsed 'will pass.' Ordered That the said bills be engrossed.

The house then proceeded to consider the bill, reported by Mr. Gantt, entitled, An act to ascertain and settle the salaries of the members of the executive council for the present year and it was read the second time; when

On motion by Mr. Thomas of Cecil, the question was put 'That the said bill be referred to the committee on ways and means?' And it was determined in the negative.

On motion by Mr. Gnatt the blank in said bill was then filled with the word 'five.' It was then passed, and sent to the senate for concurrence.

The bill reported by Mr. Tilghman, entitled, A further additional supplement to an act to regulate elections, was then taken up for consideration, and read the second time.

In the progress of the second reading of said bill,

On motion by Mr. Tilghman, the blank in the second section was filled in with the names of Thomas Emory, William Grayson, Edward Tilghman, John W. Bordley and James Marsey.

On motion by Mr Tilghman, the title of said bill was amended, so as to read, 'An act for the division of Queen Anne's county into election districts.'

The bill, so amended was then passed and sent to the senate for concurrence.

On motion by Mr. Douglass of Dorchester the following message offered by him, was twice read agreed to, and with the bill to which it relates, sent to the senate viz:—

By the House of Delegates, Jan. 25.

Gentlemen of the Senate,

We return you the bill, entitled, An act to fix and regulate the time of opening the orphans court of Dorchester county on the respective days of meeting of that court and for other purposes; & request a reconsideration of the same by your honourable house. From the peculiar location of the seat of justice in the said county, a large portion of the persons having business with the orphans court, from the want of a definate and known period of limitation to its sessions, are frequently exposed to oppressive and vexatious delays With a view to the remedy of such inconvenience and to gratify the common wish of the people of Dorchester county, the bill in question has been devised. We therefore request that your honourable house will pass the said bill.

The house then adjourned until to-morrow morning ten o'clock.

SATURDAY, Jan. 26.

The house met. Were present, the same members as on yesterday. The proceedings of yesterday were read.

On motion it was Ordered, That Messrs. Douglas of Dorchester, Lake, & Williams of Dorchester, be appointed a committee to prepare and report a bill to be entitled, An act relating to the levy court in and for Dorchester county, and for other purposes.

Mr. Tilghman from the committee on ways and means, reported a bill, entitled, An act to ascertain and fix the allowance of members of the senate, members of the house of delegates, and their respective officers, which was read the first time and ordered to lie on the table.

Mr Sellman offered the following order for consideration:

Ordered, That the committee of ways and means be instructed to inquire into the expediency of reducing the salaries of governor, members of the council, treasurer, clerk of the council, auditor, examiner general the per diem officers of the house of delegates, and of the senate; and all others who hang upon the treasury.

Which was twice read; when Mr. Thomas of Frederick, proposed to amend the same by striking out the words 'others who hang upon the treasury,' and substituting in lieu thereof the words 'other officers whose salaries depend upon the annual enactments of the legislature. The amendment proposed was accepted by Mr. Sellman, and adopted by the house.

The question was then taken, Will the house adopt the order proposed as amended? And it was resolved in the affirmative.

The yeas and nays being required by seven members, were taken and appeared as follow:

Affirmative—51—Negative—16

The bill from the senate, entitled, An act for the benefit of William W. Whittington, Charlotte Whittington, John R. Whittington and Robert H. Whittington the infant children and heirs at law, and representatives of William Whittington, late of Worcester county, deceased; and the bill of this house, reported by Mr. Hope entitled, An act to provide for electing commissioners for Harford county and prescribing their powers and duties, were severally taken up for consideration again read, and passed without amendment.

The house then adjourned until Monday morning ten o'clock.

MONDAY, Jan. 28, 1828.

The house met. Were present, the same members as on Saturday. The proceedings of Saturday were read.

The Speaker communicated to the house a report from the cashier of the Bank of Baltimore, respecting the state directors in that bank; made in obedience to the order of this house of the 25th instant; which was read.

By Mr. Boon, the memorial and remonstrance of John Archer Robertson, of Kent county, in which he charges the judges of Baltimore county court with a violation of his constitutional rights, in excluding him from the practice of law in said court; which was referred to the committee on grievances and courts of justice.

Mr. Tilghman having asked and obtained leave to introduce a bill to be entitled, An act directing the application of the

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