

brought by Washington county against the Baltimore and Ohio Rail Road company, to recover the penalty of one million dollars, which that company was to have paid to the use of Washington county in the event of failing to pursue a specified route. This might have been regarded as a contract with the county if the Legislature represented parties dealing for it, and with it, as corporate agents. And this necessarily would have been the construction, if there had been a particle of truth in such a theory. The Legislature remitted the penalty, and Washington county failed to show that the law was unconstitutional.

The gist of the decision was the merely political character of the county organization. They are municipal corporations—nothing more. They can be divided, and sub-divided—new arranged—obliterated even, at the pleasure of the political power of the State. Why then encourage a theory that will lead only to mischievous results?

Mr. JOHN NEWCOMER gave notice of an amendment which will be found hereafter.

Mr. BOWIE suggested a modification of his amendment to Mr. DASHIELL, which was accepted.

Mr. THOMAS said, that the amendment of the gentleman from Somerset, (Mr. Dashell,) was in direct conflict with the language of the law under which we had assembled. It would be seen, by reference to the first section of the law calling this Convention, that the people of Maryland, in the aggregate, were invited to vote for and against the Convention; and in the third section of the same law, it is declared; that the Convention shall assemble, if a majority of all the people of the State, declare in favor of such an assemblage. We are here, then, at the instance of and with authority of the people of Maryland. The sense of the several counties and of the city of Baltimore, was not taken separately. And it cannot, with any propriety, be denied that the language, as it is now in the preamble to the bill of rights, is true and applicable to our proceedings.

But, says the gentleman from Somerset, the Convention who adopted the present Constitution of Maryland, voted on questions arising therein, by counties, each county being entitled to one vote. Even if that was so, it would not effect the question now before this Convention. We are not adopting a preamble to the old Constitution, but we are proposing to prefix one to the Constitution which we are about to form. The law calling us together, having been passed by the members of the Senate and House of Delegates, voting *per capita*, and having been sanctioned by a majority of all the people of this State, that majority being ascertained by their aggregated votes.

If the gentleman from Somerset, would look a little further into the proceedings of the Convention of 1776, he would discover that in adopting the Constitution for this State, the members of the Convention voted *per capita*. On some questions for convenience, the Convention had given to each county a vote, but on the final vote for and against the adoption of the Constitution, every member of the Convention gave an individual vote. As to the supposition, that the gentleman from Somerset, seems disposed to encourage, that

the Convention of 1776, considered our old Constitution as a "quasi confederacy," as Mr. McMAHON, has expressed it, it is altogether inconsistent with the conduct of that Convention, in having, without asking consent of Frederick county, carved out of that, then very large county, the counties of Montgomery and Washington. Now we all know that the Constitution of the United States, which is a government for a confederacy, expressly denies to the general government the power to disturb the boundaries of any one State of the Union, without its consent.

Anticipating that the Convention would do nothing to countenance the idea that the old Constitution was nothing more than articles of confederation between the counties of the State and the city of Baltimore, Mr. THOMAS contended that there was nothing in the history of its adoption that would justify a further continuance of that rule of apportionment, which gave to the counties and the city of Baltimore the representation they now have, respectively, in the House of Delegates and Senate, and upon this floor |

We had no census showing accurately the population of the several counties in the State in 1774. We had the census taken by the United States in 1790. By referring to that census it would be found that the population residing in that section of the State who desire to have a new Constitution, exceeded by a few thousand only, the number of the population in that part of the State where an amendment of the old Constitution had been uniformly resisted. From this fact it is not unreasonable to suppose, that sixteen years before that census was taken, in 1774, the majority of the people of Maryland resided in the counties who have a majority of the members of the House of Delegates and of the Senate, and a majority of the members of this Convention. And we may infer that the Convention of 1774, in giving to each county an equal vote on some questions, acted with great magnanimity in permitting the western counties of the State to have more votes than their population then justified. How different is the scene now? The population on one border of Maryland is three times as great as the population in the counties on the eastern and western side of the bay. Nevertheless this last named section controls the Legislature, and has control in this Convention. Against this state of things the people of the western counties came here to remonstrate. They admit that those brethren who had the legislative branch of the government in their hands are patriotic, honest, and capable. They claim to be possessed of the like qualifications to make good citizens. And are not willing to pass their right of self-government to others. They are willing to be governed by a majority, and consider that to be the only power to which men of free wills can properly submit.

Mr. T. invited the gentleman from Somerset, to look a little further into the early history of Maryland; saying, that he would willingly adopt the rule by which the first settlers of Maryland apportioned the members of the legislature. At that time, there were but two counties in the State—