

It is in order—I believe it is not now in order, there being already an amendment to an amendment pending—I shall be obliged to the Convention if they will give me an opportunity to offer this as an amendment.

Mr. MARBURY. In my judgment the argument that this bill of rights has stood the test of upwards of a century is a strong one, although it may not be a conclusive one. I know that it is an unpopular argument in the present state of affairs, and I do not expect, by anything that I may say upon this clause of the bill of rights, or upon any other clause, that I shall be able to convince the minds of gentlemen who went for the glorious "rule of twenty-six." I think they ought to be designated as the "rule of twenty-six" gentlemen, as the gentlemen who go for putting a Constitution upon the State of Maryland by the votes of twenty-six men. I do not know how many of them there are in this Convention, but I want them all to have the full honor and credit of supporting such a proposition.

Now in coming to the discussion of this bill of rights, as it is the first opportunity I have had of addressing this Convention upon the subject, I would like to state what I conceive to be the nature of a bill of rights. It seems to me that in this country there was no absolute necessity for a bill of rights of any kind. In England, whence we derived this idea of a bill of rights, they have no written Constitution—and a written charter of rights of some kind was necessary there, in order to enable the people to know specifically what they may, at all times, demand of the Government. Now, sir, in this country we have written Constitutions, containing specific articles, instructing the legislative, the judicial and the executive departments of the Government—what they cannot do, and what they can do; and though both the bill of rights and the Constitution are equally parts of the organic law of the land, still, if they ever come in conflict, which they very often do, the Constitution, being the more specific, and entering more into details as to the character or the execution of the rights, is the one to be taken as conclusive upon the subject which may be in dispute. You have then to look to the Constitution as the specific law for the government of the State.

The bill of rights is a mere declaration of general principles. It is somewhat in the nature of the Declaration of Independence, embodying a statement of broad, general principles. It does not undertake to legislate, or to bind down the State. If you will read it you will find that each clause of this bill of rights as it stood framed by the Convention of 1776, is a declaration of some general principle; that is the only true construction that can be put upon it. The bill of rights does not say, as gentlemen here seem to argue, that you *shall* do so and so,

but that you *ought* to do so and so; that such and such is the correct principle that should govern you. But they do not attempt to bind you down to do so at all hazards. The first clause of the article now under consideration reads thus:

"That the levying of taxes by the poll is grievous and oppressive, and ought to be abolished."

Now why did they say that it was grievous and oppressive? It was because history had shown it to be so; because the experience of foreign nations, wherever a poll tax was attempted to be put upon the people, had shown that in many instances the right to do so had been grossly abused. Any gentleman here can easily conceive, in his own mind, a case where the levying of such a tax would be grievous and oppressive. Suppose the Legislature had the power, and should impose a poll tax of \$50. That might be a very small tax to impose upon some men, but others might find it exceedingly grievous and oppressive. That would be a case where a poll tax would be grievous and oppressive. Now there is no conflict between the portion of this article declaring a poll tax grievous and oppressive, and that portion authorizing the taxing every man according to the property that he holds. The argument against the poll tax is that in the hands of injudicious and unwise legislative bodies it may be exceedingly grievous and oppressive. We do not here undertake to bind down the Legislature; we merely express here what ought to be our policy in binding it down when we come to that portion of the Constitution defining the powers and duties of the Legislature. The next clause of this article reads,

"That paupers ought not to be assessed for the support of the Government."

That indicates that in the proper place in the Constitution we should restrain the Legislature from imposing taxes upon that particular class of persons. The article then goes on to say—

"But every other person in the State, or persons holding property therein, ought to contribute his proportion of public taxes for the support of the Government, according to his actual worth in real or personal property."

It says, "every person;" it makes no exception—every person holding property in the State, of any kind or description, shall be taxed, and that the tax ought to be in proportion to his actual worth in real or personal property. Now can there be any proposition more clear and specific than that a man who owns property in the State is bound to pay a tax according to the amount of that property? And is not the argument that there are certain classes of men in this State who do not own property you can reach, fully met by the concluding clause of this article?