

finer imposed, nor cruel or unusual punishment inflicted by the courts of law."

That I think will reach both the legislative and judicial departments of the government, and can be properly embodied in one article.

Mr. MILLER. The amendment of the gentleman from Howard (Mr. Sands) has reduced this question to one of mere form, for he merely puts these two articles together, leaving out no line or word of either. And the only reason he assigns for that is that it is not necessary to cumber this bill of rights with two articles when one will do as well. I, therefore, see no particular advantage in his amendment.

If the gentlemen from Baltimore city and Howard (Messrs. Stockbridge and Sands) will cast their eyes over the 16th and 17th sections, they will find that those sections relate to one subject matter as much as do the 15th and 24th articles. The 15th, 16th and 17th articles are prohibitions upon legislative powers, the 15th relating to cruel and sanguinary laws, the 16th to *ex post facto* or retrospective laws, and the 17th to laws attainting particular persons of treason or felony, a practice which existed in England when the bill of rights was originally framed and adopted. Now if it is proper to combine the 15th and 24th articles together, why should not the 16th and 17th be combined and put in one article. I think it is best that they should stand as they originally stood in the old bill of rights. If we put them together, we make quite a long article; whereas, the beauty of such things, is the announcement in brief and terse language of some simple principle, some great right which the people reserve to themselves, and say that no department of the government, the legislative, executive or judicial shall execute for them. Therefore I think it is very proper to have those matters which relate to the several departments distinct as they are now, and that they should remain so.

Mr. SANDS. Both these articles are simply prohibitory, and relate to the same matter precisely; the one says the Legislature shall not do it, the other that the courts shall not do it. Now, if there are other sections which the gentleman thinks should go together in order to make this bill of rights more condensed and symmetrical, I am willing to agree to it. I would only suggest, however, that these two articles being simply prohibitory as against the legislative and judicial branches of the Government in relation to the same matter, I think they ought to be put together. I do not see that putting a colon in the place of a period after the word "hereafter," takes anything from the terseness or plainness of sentiment enunciated. It rather makes a complete whole of two things which I do not think there is any reason to keep separate.

Mr. STIRLING. When my colleague, (Mr. Stockbridge,) first suggested his amendment, it occurred to me, as it still does, that in some

respects it was proper. But I cannot endorse the proposition of the gentleman from Howard, (Mr. Sands.) He proposes simply to put the two articles together. Now, that is no alteration at all. But the idea of my colleague is that by some slight change in the language of the 15th article, it can be made to amount to positive prohibition in one article on both the courts and the Legislature. But I am inclined to think that it is not a very material matter, and as it may give rise to some difference of opinion, on the whole it may be better to let it alone.

The PRESIDENT. The proposition of the gentleman from Howard, (Mr. Sands,) is not properly an amendment to the amendment of the gentleman from Baltimore city, (Mr. Stockbridge,) but rather an amendment to the article itself. The Chair, hereafter, will rule that amendments must be made to apply to the proposition or subject-matter to which they are made.

Mr. SANDS withdrew his amendment.

The question being taken on the amendment of Mr. STOCKBRIDGE, it was not agreed to.

No further amendments being offered, articles 16, 17 and 18 were then read.

Mr. MILLER. I move to amend article 18 by inserting in the first line the word "free" before the word "man," so that it will then read "that every free man, for any injury done to him in his person or property, ought to have remedy by the course of the law of the land," &c. I offer this amendment to make this article conform to the one in the present bill of rights. I also see that the same change has been made by the committee in another section, for what reason I cannot tell. The words of *Magna Charta* are *nullus liber homo*, in both these sections; no "freeman" ought to be deprived of his property, &c. Now, I cannot conceive why there should be this change made in these words here, even if the purposes and objects of the majority of this body should be carried out and the slaves emancipated. The article will apply just as well to them when freed, if the word "free" is inserted here, as it will to the white population of the State. If the plan of gradual emancipation is adopted, I do not suppose it is, the object of the majority here to have this section apply to them until they are made completely free under the Constitution and the laws which may be made in pursuance of it. I wish, therefore, to preserve, if possible, the old language of *Magna Charta* in this respect, and have the *liber homo* of the *Magna Charta* preserved in the word "freeman" in our bill of rights.

Mr. STIRLING. I agree with the gentleman from Anne Arundel, (Mr. Miller,) that the change makes no important difference one way or other in any legal position. There is no doubt, so far as the question of slavery