

BY THE HOUSE OF DELEGATES,
December 8, 1785.

MAY IT PLEASE YOUR HONOURS,

THIS house have heard counsel at its bar on the memorial of Mr. Harford, late proprietary of this State, in which he solicits a compensation or retribution from this government for his confiscated property. We esteem the case of Mr. Harford very important, and of such a nature as to require the united wisdom of both branches of the legislature to decide properly thereon, and do therefore propose a conference with your honours on the subject matter of the said memorial. Should the senate accede to the proposed conference, we will nominate some of our members to meet such of your house as you may please to appoint for the above purpose.

By order,
W. HARWOOD, clk.

Which was read.

The message respecting Henry Harford, Esq; was read the second time, and the question put, That the house assent thereto? The yeas and nays being called for by Mr. F. Bowie appeared as follow:

AFFIRMATIVE. Messieurs Bond, Somerville, De Butts, Maxwell, Lethbrury, Graves, Hall, Carrull, Gantt, Fraizer, Jones, Dent, Turner, Stone, Ridgely of Wm. Goldsborough, Gale, John Dashiell, Adams, Waters, Waggaman, Ennalls, Baker, Ramsay, R. Bowie, Chafe, Quynn, Sewell, Jackson, Chaille, Mitchell, Joseph Dashiell, Purnell, Faw, Carey, Norris, Hughleit, Downes, Stull, Funk, Beall.

NEGATIVE. Messieurs N. Worthington, Grahame, Taney, Ridgely, Bacco, Oglevee, Miller, W. Bowie, F. Bowie, John Seney, Beatty, Steret, Cellars, Oneale.

So it was resolved in the affirmative.
Sent to the senate by Mr. Fraizer.

WEDNESDAY, December 21, 1785.

Edward Loyd, Esq; from the senate, delivers to Mr. Speaker the following message and resolution:

BY THE SENATE, December 19, 1785.

GENTLEMEN,

UPON the receipt of your message proposing a conference on the memorial of Henry Harford, Esq; we deemed it expedient previously to determine, whether any compensation should be made to the memorialist, for the losses stated in his memorial to have been incurred by him in consequence of the late revolution. For it naturally occurred to us, that it would be mispending time to discuss the quantum and manner of making the compensation, if either house should be of opinion, that no compensation ought to be made to the memorialist. On the fullest inquiry into the subject, and examination of the arguments suggested by the memorialist's counsel in your house (at which most of us were present), and which were again stated to and satisfactorily answered in this house, we are decidedly of opinion, that the memorialist cannot of right ask, or this state, consistently with that justice which is due to others, grant him, any relief or retribution for the losses he has sustained in consequence of the revolution, and the acts of our legislature. That revolution and those acts were occasioned by the prosecution of an unjust war, commenced against this country by the British government, of which the memorialist is a subject. On that government, therefore, to which he remained attached during the whole war, and with whose success his own interests were so intimately connected, he ought only to rely for compensation for his losses. However rigorous the confiscation of the property of British subjects might appear, abstractedly considered, the act for seizing and confiscating that property, under the circumstances and with the restrictions it was passed, we are convinced, was perfectly justifiable. The severity of the measure long delayed its adoption, and that delay mitigated its severity, by affording to every British subject the opportunity of avoiding the consequences of the confiscation act.

The memorialist came of age in the spring of seventeen hundred and seventy-nine, the act of confiscation passed in the beginning of the year seventeen hundred and eighty one, full twelve months after the measure had been warmly and generally agitated in this state, and must have been known in England. Instead of repairing to Maryland and becoming a citizen, the memorialist, confiding in the power and success of his native country, remained in England, attending on the court of chancery, and waiting the adjudication of suits which were to determine the right to the province of Maryland and its dependencies, between the memorialist and the heirs at law of the late lord Baltimore, and which adjudication could have no effect, unless America should be conquered by the British government. This state of facts leaves not the smallest room to doubt, that the memorialist, both from interest and inclination, continued a British subject, and devoted to his native country, which, although free, endeavoured, by lavishing its blood and treasures, to deprive us of our freedom. We cannot discover a single circumstance in the case of the memorialist, to distinguish him from other British subjects, and which should induce this government to except him out of the general law of confiscation, or partially compensate the losses, which the revolution, that law, and his own conduct, have brought upon him. Every British subject, who did not bear arms against these United States, and whose property has been confiscated, has

an equal if not a better claim to our commiseration.

Legislatures ought to be governed by general rules and principles; their acts should not be liable to the reproach of partiality, or of an undue preference. If any retribution should be made by this state to the memorialist, a proportionable compensation ought to be given to every other British subject. Will the state of our finances, and the heavy debt we have contracted in the defence of our liberty, suffer such application of public monies? The claims of justice must be satisfied, and we ought to attend to the distresses of our own citizens, occasioned by the depredations of the enemy and other causes in the course of the war; but British subjects, if entitled to any compensation for their losses, must seek redress from that government, whose injustice occasioned them, and of which they are citizens. The attachment of the memorialist to the British government, and the great losses he has incurred, may entitle him to the bounty of a British parliament, but can give him no just claim to any compensation from this legislature. The claim to quit-rents, as a subsisting debt recoverable under the treaty, which was urged as a ground for making a compensation to, or compromise with, the memorialist, has also been considered, and appears to us entirely groundless and inadmissible, being, as we conceive, incompatible with the sovereignty and independence of this state; and we cannot, consistently with the duty we owe to our constituents, do, or suffer to be done, any act, that has the most distant tendency to create a supposition, that any power on earth can place the free people of Maryland in the degraded condition of tenants to a superior lord, a foreigner, and a British subject. We are all clearly of opinion, that the quit-rents reserved upon the grants of the former proprietaries, were hereditaments subject to all the rules and consequences of other real estate, and therefore cannot, consistently with law, be held by an alien; and that no part of the treaty of peace can give the smallest colour to a supposition, that these hereditaments, more than others, were saved or reserved. That the claim of the former proprietary to quit-rents ceased upon the declaration of independence, we have not the smallest doubt, and we think the legislature acted wisely in declaring, that the payment of them even to this government should never be exacted, and that the citizens of this state should hold their lands on equal terms with the citizens of the other states.

Having stated our opinions, and the reasons for them, it would be an useless waste of time to confer on the memorial of Henry Harford, Esq; especially as we have no cause to surmise that your opinion may be different from ours, as to the principle of making compensation.

To prevent the public councils from being diverted from more important and necessary concerns, and to save the further loss of time upon this subject, we herewith transmit a resolve, unanimously agreed to in this house, which, if adopted by yours, will effectually obviate the inconveniences just mentioned.

We flatter ourselves, gentlemen, that you do us the justice to believe, that we will cheerfully confer with you at all times, and upon all occasions, in which the public service may be promoted by our assistance, and that our declining the proposed conference, does not proceed from the smallest disrespect, but from an impression and belief, that the mode we have suggested will bring the question of a compensation to the speediest conclusion, and consequently be the most acceptable to both houses.

By order,
J. DORSEY, clk.

BY THE SENATE, December 19, 1785.

THE memorial of Henry Harford, Esq; stating his losses, and soliciting compensation, being read and considered, the senate were unanimously of opinion, that the memorialist cannot of right ask, or this state consistently with justice to others grant him, any compensation or retribution for the losses he states in his memorial to have been by him sustained in consequence of the revolution and acts of our legislature: Wherefore, **RESOLVED**, That the memorial and application of the said Henry Harford, Esquire, be rejected.

By order,
J. DORSEY, clk.

Which were read.

FRIDAY, January 6, 1786.

On the second reading the message respecting the memorial of Henry Harford, Esq; and the resolution, the question was put, That the house assent to the said resolution? The yeas and nays being called for by Mr. Faw appeared as follow:

AFFIRMATIVE. Messieurs Key, Bond, De Butts, B. Worthington, N. Worthington, Hall, Grahame, Taney, Fraizer, Jones, Dent, Turner, Stone, Ridgely, Ridgely of Wm. Stevenson, Roberts, Edmondson, Goldsborough, Bracco, Gale, John Dashiell, Adams, Waters, Hooper, Miller, W. Bowie, Digges, R. Bowie, F. Bowie, John Seney, Sewell, Joshua Seney, Chaille, Purnell, Faw, Beatty, Bayly, Carey, Norris, Love, Wheeler, Driver, Steret, Stull, Cellars, Funk, Oneale, Wootton.

NEGATIVE. Messieurs Lethbrury, Graves, Carroll, Ramsay, Chafe, Quynn, Joseph Dashiell.

So it was resolved in the affirmative.

Extract from the Journal,
W. HARWOOD, Cl. Ho. Del.

To the PEOPLE of MARYLAND.

I CANNOT remain a silent spectator, when I apprehend that your immediate representatives are about to adopt a measure, which to me appears altogether repugnant to humanity, justice, and true policy. On this day a motion was made for leave to bring in a bill for fixing the seat of government at Baltimore-town. The question to be debated is of too much importance to admit a hasty decision, or any decision at all, without a full meeting of the members in each house. Should advantage be taken of a critical season, should gentlemen avail themselves of the absence of obnoxious members, to bring on this grand debate, they will convince every impartial mind, that public good is not their only principle. The question, however, ought to be decided as early a period as is consistent with mature deliberation; for so long as it remains undetermined, it prevents the growth of Annapolis, agitates the minds of its citizens, fills them with doubts, renders the value of their property uncertain, and effectually checks all spirit of enterprise. To the inhabitants of Baltimore-town it furnishes subjects of a pernicious speculation, by which it is probable a few men will be benefited to the injury of many. The only proper and fair measure to be pursued on this occasion, would be to set apart some day in the next session for a solemn discussion. In the mean time, you and your representatives might consider, what your true interests require. Permit me to observe, that a love of novelty, or rather a rage for innovation, seems to have taken possession of your minds. Perhaps it may be natural for those who have profited by one important change, to expect an advantage from every other; but if that passion be not guided by reason, the most baneful consequences will often flow from indulging it.

There are two points to be settled before the legislature can, with propriety, decide on the main question; first, whether the constitution will admit the projected change by the act of a single legislature; and next, whether public good demands it.

As each member of the legislature has taken an oath to support the constitution, we must with candour suppose, that none of them will consent to a plain violation of that constitution, even if they should be convinced that any act repugnant to its principles can have the force of a law. I shall contend, that Annapolis, by the constitution, is the fixed place for the meeting of the legislature; and I shall offer such arguments as have occurred to me in support of this opinion. Not only this, but every other argument must receive a full answer, before any man, who regards the obligation of his oath, or is impressed with a sense of his duty, can give his vote for removing the government to Baltimore-town by a single act of assembly. If the constitution has fixed the government at Annapolis, and if that part of the constitution be injurious to the state, there is an easy method of redressing the evil prescribed by the constitution.

The ninth article of the declaration of rights, asserts, that "a place for the meeting of the legislature ought to be fixed, the most convenient to the members thereof, and to the depository of the public records; and the legislature ought not to be convened, or held, at any other place, but from evident necessity." Thus says the declaration of rights. The sixty first clause of the form of government directs, that the general assembly shall meet at Annapolis on a certain day. My idea of the declaration is this:—it was intended, first, to ascertain what laws should be in force upon the formation of the new government, and then to lay down certain principles and maxims to direct their own future conduct, and the conduct of all future legislatures. The declaration is distinct from the form of government, and they were passed at different times, but they were both framed by the same body of men; each has the force of a law; the construction of one must be made upon a view of the other, and neither of them can be altered, changed, or abolished, unless a bill is to alter, change, or abolish the same, shall pass the general assembly, and be published at least three months before a new election, and shall be confirmed by the general assembly, after a new election of delegates, in the first session after such new election. I contend, that the constitution, in obedience to the declaration of rights, has fixed the legislature at Annapolis; for the same body of men, who declared that the legislature ought to be fixed, has directed, that the legislature shall meet on a certain day at Annapolis. By others it is maintained, that the first meeting of the assembly was only for the particular purpose of choosing the governor and council, and for appointing the officers of government; if that construction be right, when this particular business was over, the session ought to have ended, and no future session could have been held, because no place of meeting was appointed. The legislature, however, made a more rational construction; they transacted the particular business, and exercised every other constitutional power which they deemed expedient. They, however, passed no act for fixing the seat of government; no bill for that purpose was framed, or even moved for, in either house; there was no conference or message on the subject; but when the business of legislation, for that time, was dispatched, each house adjourned without naming the place of meeting; they met afterwards, agreeably to adjournment, as of course, at Annapolis; and at every subsequent session they have acted in the same way.

By the term fixed, I understand not *fixing*, or *moving about*; and, if the place for the meeting of the legislature be not fixed, I ask, what, in the name of common sense, has invariably determined the members of each house, to repair to a place which was not named in the adjournment.

But the gentlemen who deny that the place is fixed by the constitution, are not aware of the consequences of such a denial. As the legislature has never fixed the place, either all the acts passed since its first meeting are void, or it is necessary to prove, that the legislature can enact laws at a place not fixed for its meeting. It would be a notable discovery, indeed, if it should be found, that the government has so long been administered without any authority, and that we are, in fact, at this moment, without any rightful government, or law; however, this is most assuredly the case, if no place has been fixed for the meeting of the legislature. The