rspread with a slight tinge of red, his features were softened, and appeared as if a trance of celestial happiness.

Gabriela's look dwelt long and fonished upon him; at last she observed: "Tell me, youthful Sir, at is it, that, in this plain song, has deeply affected you, it is nothing one of the many melodious effusions, which the beautiful season my home, with little variation l continued repetition of the ne imagery, calls forth by thousands.

[To be continued.]

LAW INTELLIGENCE.

Court of Appeals of Maryland,
June Term, 1817.

ohn Hall, vs. ohn Jacob *al.* Lessee. } Error to Anne-Arundel County Court.

The opinion of the Court of Appals delivered by

BUCHANAN, J. It appears from the se stated, on which the judgment the court below was founded, that *chard Jacobs*, son of *Joseph*, in the ar 1785, died seized in fee of the d for which this suit was brought, ving first made his last will and stament, whereby he devised it in to his three children, *Joseph Jacobs*, *Dorsey Jacobs*, & *Rachel Jacobs*. tenants in common; that after death of the testator, some time the year 1800, *Joseph* and *Rachel cobs*, two of the devisees named the will, died seized in fee of two rds of said land, intestate and thout issue, which two thirds ereby descended to *Dorsey Jacobs*, e other devisee in the will mentied, who being seized in fee of the ole of th land, died some time the year 1803, intestate and without issue, leaving no brother or sister of the whole blood, or descent of such brother or sister, but ving three brothers and two sisrs of the halfblood, to wit, *John ll*, the defendant in the court be-, *Daniel Hall*, *Richard Jacobs ll*, *Elizabeth Hall* and *Sarah Hall*, w *Sarah Cromwell*, children of mother by a second marriage, and o an uncle and two aunts, who the lessors of the plantiff, to t, *John Jacobs*, the brother of the ole blood to his father *Richard cobs*, the testator, and *Elizabeth ker* and *Hannah Fowler*, his fa-r's sisters of the whole blood.—nd the question for consideration to whom did the land descend on death of *Dorsey Jacobs*—to his others and sisters of the halfblood to his uncle and aunts of the ole blood on the part of his fa r equally, or to his uncle *John cobs* alone, to the exclusion of his o aunts *Elizabeth Walker* and *nnah Fowler*? And this must deid upon the provisions of the act assembly of this state, entitled, n act to direct descents," 1786 45, *Joseph*, *Rachel* and *Dorsey Jas*, having all died since the pasge of the act. It no where ap ars whether *Joseph* or *Rachel* died st, but that is not material, the re t is the same. *Dorsey Jacobs* beme seized in fee of the whole of e premises in the declaration ntioned, one third by purchase der the will of his father *Richard cobs*, and the other two thirds by cent from his brother and sister *seph* and *Rachel* under the operan of the act of descents. As to one third of the land which *rsey Jacobs* acquired under the ll of his father, it is contended at though it was vested in him by rchase in technical understanding, t that it was not such an estate purchase in the meaning of the t of descents as can descend to brothers and sisters of the halfood. The act after providing a urse, of descents for estates deended to an intestate on the part the father, and also for estates scended on the part of the mother, s this provision: "And if the esate is or shall be vested in the inestate by purchase, and not deived from or through either of is ances ors, and there be no child r descendant of such intestate, hen the estate shall descend to he brothers and sisters of such ntestate of the whole blood, and heir descendants, in equal degree qually, and if no brother or sister f the whole blood, or descendant rom such brother or sister, then o the brothers and sisters of the alf blood and their descendants, n equal degree equally &c." And it ard that the word *"purchase,"* as re used, is not to be taken in the ll extent in a technical or legal nse, but must be considered so r restrained by the subsequent ords, as not to embrace estates acquired by descent, devise or gift from an ancestor, in the case before the court, before you from or through either of the ancestors" were used to qualify the words "vested by purchase" and to distinguish an estate by descent or devise from a parent or ancestor, from all other descents of purchase. And if that construction of the act of assembly be the lessors of the plaintiff are entitled to recover. In this case for it is manifest that the one third of the land which went to *John Jacobs* under the will of his father was not derived by descent but by an estate by purchase, and is therefore within that branch of the act which directs the manner in which lands shall pass from an intestate that came to him by descent and if an estate acquired by deed will from a parent or other ancestor is not an estate by purchase within the meaning and intention of the act, and cannot for that reason pass by descent from the purchaser to his brothers and sisters of the half blood, it is a *description* of estate not provided for by the act, and must go as at common law. Hence it would follow not only that the brothers and sisters of *Dorsey Jacobs* of the half blood would not be entitled to inherit the one third of the land so acquired by him, but that *John Jacobs*, one of the lessors of the plaintiff, would take it as heir at law to *Dorsey Jacobs*, to the exclusion of his sisters *Elizabeth Walker* and *Hannah Fowler*, the other lessors.

But such a construction cannot prevail. The act of assembly employs throughout the technical terms *seized*, *descent*, *purchase*, which must be understood in their legal sense. An estate by purchase is one acquired by sale or gift, or by any other method, except only that of descent. The law knows no such distinction, as is here set up between a gift or devise by a stranger and a gift or devise by an ancestor, and there is nothing in the act of assembly to warrant us in sustaining it. It would seem like bestowing the law to the particular case, rather than the case coming within the provisions of the law.

The legislature have *used* the words, "And not derived from or through either of his ancestors," to explain their meaning of the word "purchase." In doing this they have borrowed the language of the common law, and it is difficult to suppose that they intended to change the legal import of the term by adopting the legal definition of it. Without using the term "descent" or "descendant," no set of words could be selected better suited to the purpose of describing an estate by descent than the words "derived from or through an ancestor," the term "derived" being properly applicable to a case of descent, and the word "through" of necessity implying it, since a purchase cannot be through any one. The words "and not derived from or through either of his ancestors" can therefore only be taken to mean "And not by descent," leaving the word "purchase" to be understood in its technical and most comprehensive sense, and the whole clause to be construed as if instead of the words "by purchase, and not derived from or through either of his ancestors" the language employed was by purchase, and not by descent. In this view of the subject the estate which was vested in *Dorsey Jacobs* by purchase under the will of his father embraced by the act of assembly and on his death descended to his brothers & sisters of the half blood. With respect to the two thirds of the land which were vested in *Joseph* and *Rachel Jacobs* by purchase under the will of their father *Richard Jacobs*, their appears to be more difficulty. Whatever the intention of the legislature may have been at the time of the passage of the act of descents, it is very clear that they have not in terms provided for more than three classes of cases; *first* estates descended to the intestate on the part of the father; *secondly* estates descended to the intestate on the part of the mother; and *thirdly*, estates vested in the intestate by purchase, and not derived from or through either of his ancestors. And there being no other cases provided for, if this case does not fall within either of these classes, it is not embraced by the act, and cannot descend either to the brothers or sisters of *Dorsey Jacobs* of the half blood, or to the lessors of the plaintiff equally. To which of the (if to either) of these three specified, classes does it belong? It is not estate by purchase in the technical sense it certainly is not, nor is it in vulgar understanding. It is not therefore embraced by the third branch of the act, which provides for estates "vested in an intestate by purchase, and not derived from or through either of his ancestors," unless that clause can be understood to mean that every acquisition of lands, except by descent paternal or maternal, shall be held and considered to be an estate by purchase. The general intent of the legislature may often be gratified by construction where the expressions used are of doubtful meaning, but never when it cannot be done without manifest violence to both the ordinary and legal import of the terms employed. Had they expressly declared that all estates, except those by descent on the part of the father or mother, should be deemed estates by purchase, though that would be giving to the word *"purchase"* a signification not before known to the law, yet it would govern all estates coming within that legislative description. But they have not said so in terms, and there is nothing in the whole clause from which such an intention can be inferred; and to give it such a construction contrary to the obvious meaning of the words whether technically or vulgarly understood merely upon the supposition that it was not the intention of the legislature to exclude from the operation of the act any description of estate, and because no other provision of the act could be found to embrace it, would be arbitrary and dangerous, and at variance with every known rule of construction. If it was the intention of the legislature to provide in the third clause by the description of "estates vested by purchase" for those estates not descended *ex parte paterna* or *ex parte materna*, they have not made use of words to effectuate that intention, and a court of law cannot supply the omission. For it is believed that they intended that clause to have such operation.

It is not therefore an estate vested in the intestate by purchase, and did not descend to the brothers and sisters of *Dorsey Jacobs* of the half blood. And it is equally clear that it is not an estate which descended to the intestate either on the part of the father or on the part of the mother, and is not within either of the two classes of cases first specified, and could not therefore descend to the lessors of the plaintiff equally. But it was vested in *Dorsey Jacobs* by immediate descent from his brother and sister *Joseph* and *Rachel*, a course of descent expressly directed by the act of assembly in the case of a purchaser, who dies intestate leaving no child or descendant, & is known by the at common law. This then being either the case of an estate descended to the intestate on the part of the father; an estate descended to the intestate on the part of the mother; nor an estate by purchase, but a descent from brother to brother, it is not within the act of assembly, and is a *casus omissus*, not subject to the rules of the common law governing descents. The lessors of the plaintiff cannot therefore take it by descent equally, as they could only do had it been vested in the intestate by descent *ex parte paterna*. By the common law if a man purchases land he is by intention understood to hold it *ut de antiquum*, not as land descended either *ex parte paterna* or *ex parte materna*, for the law will not ascertain it, but as an estate descended to him from some unknown ancestor; and if he dies intestate and without issue it will go first to the heirs on the part of the father, and on failure of such heirs, then to the heirs on the part of the mother, the males being always preferred to the females, and amongst males the right of primogeniture prevailing. So in this case the land in question having passed by immediate descent to *Dorsey Jacobs* from his brother and sister *Joseph* and *Rachel*, acquired it by purchase, on his dying intestate and without issue, leaving no brother or sister of the half blood, it descended to his uncle *John Jacobs*, the brother of his father of the whole blood, to the exclusion of his two aunts *Elizabeth Walker* and *Hannah Fowler*. The judgment of the court below therefore is reversed with costs.

Legislature of Maryland.

SENATE.

Monday, Jan. 22.

The bill to protect the navigation of Chester River was read the third time and will not pass. Sent to the house of delegates.

The clerk of the house of delegates returns the bill for the benefit of Martin Fenwick endorsed "will pass." Ordered to be engrossed.

The bill to confirm an act to repeal all that part of the constitution and form of government as relates to the division of Washington county into five separate election districts, and for other purposes, passed the last session, was read the third time and will not pass. Sent to the house of delegates.

The bill for the relief of Thomas Harris of Frederick county, was read the second, and by special order the third time and will not pass. Sent to the house of delegates.

The bill for the relief of Willoughby Maybury, of Frederick county, was read the second, and by especial order the third time and will not pass. Sent to the house of delegates.

Mr. Maxcy presents the petition of Hezekiah Niles, praying the passage of an act to authorise him to dispose of certain sets of his Weekly Register, and copies of the revolutionary papers, by way of a distribution of prizes. Which was read.

Mr. Maxcy presents the petition of Samuel Jones, praying for a law to release to him any right which the state may have to certain lands as escheatable. Which was read.

Tuesday, Jan. 23.

The supplement to the act to incorporate a company to make a turnpike road from Boonsborough, through Williamsport, to intersect the turnpike road now making from Cumberland to the West Bank of the Conococheague, passed Dec. session 1817; the supplement to the act to incorporate a company to make a turnpike road from the West Bank of the Conococheague Creek at Williamsport, to intersect the Cumberland Turnpike Road at or near Stone Quarry Ridge, passed December session 1818; the further supplement to the act to incorporate a company to make a turnpike road from the town of Westminster, in Frederick county, through Harmon's Gap, to Hager's-town, in Washington county, and the further supplement to an act to incorporate a company to make a turnpike road from the square in the town of Boonsborough, in Washington county, to Swearingen's Ferry on the Potomac River, were read the second and by special order the third time, passed and sent to the house of delegates.

The bill for the relief of the Cumberland Bank of Alleghany was read the third time and will pass.

The bill to provide for the support and maintenance of debtors actually confined in prison, was read the third time and will pass.

The bill for the relief of Isaac Lyon, of Frederick county, was read the third time and will not pass.

Wednesday, Jan. 24.

Mr. Gale from the committee to whom was recommitted the bill for the better administration of justice in the several county courts in this state, reports the same with sundry amendments. Which were read and the bill passed.

Mr. Harper from the committee reports a bill entitled. An act to extend the powers of the levy court of Baltimore county in the case therein mentioned. Which was read.

Thursday, Jan. 25.

The bill for the benefit of David Harry, of Washington county, was read the third time and will not pass. Sent to the house of delegates.

The bill to make valid a deed therein mentioned, was read the third time and will not pass. Sent to the house of delegates.

The bill for the benefit of Basil Spalding of Charles county was read the second and by special order the third time and will not pass.

The bill for the relief of Charles Hutchinson, and the bill for the relief of John Holman, of Washington county, were read the second, and by special order the third time, and will not pass.

The bill to establish the divisional line between Baltimore and Frederick counties, and the further supplement to an act for the erection of a new court house in Washington county, were read the second and by special order the third time and will pass.

On motion of Mr. Parnham Leave given to bring in a bill, entitled, An act to restrain the evil practices of constables.

Friday, Jan. 26.

The bill respecting an application for a road in Baltimore county court by Thomas Owings, was read the second, and by special order the third time, and will not pass.

The clerk of the house of delegates delivers a resolution relative to publishing the stay of execution law; a resolution in favour of William Kilty, Thomas Harris, and John N. Watkins, Esquires; a resolution in favour of the heirs of John Neptune; a supplement to an act to enlarge further the powers of the trustees of the poor of Harford county and for other purposes; an additional supplement to the act concerning crimes and punishments, and to regulate the salary of the first keeper, clerk, agent, deputy keepers, and guards of the penitentiary; a bill for the relief of negro Ann, and her three children, of Frederick county; a supplement to an act for the better protection of slave holders; and a bill to repeal all that part of the constitution and form of government as relates to the division of Washington county into five seperate election districts and for other purposes. Which were read the first time and laid on the table.

And returns the bill for the relief of the managers of the Medical College Lottery, endorsed "will pass." Ordered to engrossed.

HOUSE OF DELEGATES.

Monday, Jan. 22.

PETITIONS

From John Barrett, a revolutionary soldier. From sundry inhabitants of Charlestown, Charles county, that the same may be resurveyed and laid out by commissioners — From John Barnes, clerk of Charles, for further time to send out his fees. From David Wilson and Nicholas Fitzgerald revolutionary soldiers.— From James Earingig and Cornelius Seaman for special acts of insolvency. From Jane King and Rachel Webb, and Nicholas Haney for a pension. From James Woodward and Harriot Woodward, for a change in their names. From the trustees of Poolsville Academy, for a donation. From the levy court of Frederick to be authorised to build a wall round the jail. From the professors of the University of Maryland for such support as the legislature may deem proper. From Hector Perkins for a special act of insolvency.

Mr. J. Forrest reports a further supplement to the act for the better protection of slave holders.

The bill to limit the power of granting writs of nolle prosequi and pardon was rejected by a vote of 41 to 23.

Mr. S. Stevens obtained leave to report a further supplement to the act to incorporate a company to make a turnpike road leading to Cumberland and for the extension of the charters of the several banks in the city of Baltimore and for other purposes so far as relates to Talbot county.

Mr. Marriott from the committee of grievances and courts of justice delivers a report on the attendance of the judges.

Mr. T. Kennedy report a bill respecting the turnpike road from Baltimore to Cumberland.

Mr. Stoddert reports a bill to provide for the payment of costs in the case of forfeited recognizances.

Mr. T. Kennedy obtained leave to report a bill respecting the assent of creditors to the release of debtors under the insolvent laws of this state.

The supplement to the act to incorporate the trustees of Cambridge academy was rejected by a vote of 38 to 28.

The house adjourned.

Tuesday, Jan. 23.

PETITIONS.

From Thomas Wright that he may be answerable only for his proportion of a debt due to the state by Samuel T. Wright to whom he was security. From George C. Townes that his name may be changed to Thompson.

Mr. T. Kennedy reports a bill respecting the assent of creditors to the release of debtors under the insolvent laws of this state.

The bill relating to public roads and public landings in Worcester was rejected by a vote of 38 to 35.

The bill to alter the mode of changing the constitution of this state was referred to the consideration of the next general assembly by a vote of 46 to 28.

The house proceeded to the consideration of the bill establishing the form of the oath of office and to repeal certain parts of the constitution, and on motion of Mr. Lecompte to strike out or in other words to reject the bill a considerable debate took place. Before coming to a determination,

The house adjourned.

Wednesday, Jan. 24.

PETITIONS

From Elizabeth Birkhead, that the proceedings of the commissioners in the division of the estate of Dr. Daniel Sullivane may be confirmed. From the grand jury of Frederick for a special court with criminal and equitable jurisdiction.

Mr. Marriott obtained leave to report a bill relative to writs of Habeas Corpus.

On motion by Mr. Marriott a message was sent to the senate proposing to go into the election of Bank directors in the several institutions in which the state holds stock to morrow at 12 o'clock.

The house resumed the consideration of the unfinished business of yesterday, on the test-bill, and after some time spent in debate,

The house adjourned.

Thursday, Jan. 25.

PETITIONS.

From Thomas Quantrill, for a change in the christian name of one of his children. From sundry inhabitants of St. Mary's county, counter to the petition for a change in the time of holding the court of said county. From sundry inhabitants of Allegany for a modification of the law relative to licences.

Mr. Lecompte reports a bill to ratify the proceedings of the commissioners appointed by Dorchester county court to make division of the lands, &c of the late Dr. Sullivan.

Mr. Hilleary reports a bill to repeal the several acts of assembly respecting the herding of cattle in Allegany.

Mr. Bowles reports favourably on the petition of Captain Lewis Green and others, which was read and the resolution therein contained assented to, and sent to the senate for concurrence.

The resolution relative to furnishing the government house was rejected.

The bill for the relief of the managers of the Medical College, and the resolution in favour of John Neptune and others, were severally passed and sent to the senate for concurrence.

On motion by Mr. Allen the question was put that leave be given to bring in a bill to alter and amend all such parts of the constitution and form of government as exclude any minister or preacher of the gospel from having a seat in the general assembly or in the council of this state. The question was taken and determined in the negative by a vote of 35 to 33.

Mr. Stoddert laid a resolution on the table for consideration in favour of Judge Chase.

The house adjourned.

Friday, Jan. 26.

PETITIONS.

From Wm. Mason, Joseph Ratcliff, John Penn, for pensions. From Anthony Ricketts, that the original will of Mary Briscoe may be delivered to him, to use as testimony in the state of Virginia. From the officers of the 14th brigade for the better equalization of the districts of said brigade. From Margaret Cooper for a divorce. From John Hart for a pension.

Mr. J. B. Eccleston reports unfavourably on the petition of sundry inhabitants of Kent and Queen Ann's relative to an increase of tolls, which was concurred with.

Mr. Stoddert reports a bill to authorise the levy court of Charles, to rebuild the tobacco warehouse at Cedar Point.

Mr. M'Pherson reports a bill to authorise a lottery to complete the German and Reformed Church in Middletown.

The amendment proposed by the senate to the supplement to the act to regulate the mode of staying executions, were agreed to and the bill returned.

Mr. Marriott delivers the following report:

The committee to whom was referred that part of the executive communication relative to the dilapidated condition of the public buildings at the seat of government, and the propriety of providing by law, for the building of an armory, magazine, and gun house, at the seat of government, beg leave to report, that they have had the same under their consideration, and have examined the public buildings, and find that they require to be repaired; and it being obvious that the safety of the state house is at all times endangered by the quantity of fixed ammunition which it is found necessary the armourer occasionally should have under his care, and by the attractive influence of so large a mass of steel, beg leave to recommend the adoption of the following resolutions:

Resolved, That the governor and council be, and they are hereby authorised and empowered to cause the public buildings at the seat of government to be repaired, and that they draw on the treasurer for a sum of money not exceeding dollars.

Resolved, That the governor and council be, and they are hereby authorised and empowered to contract for the building of an armory, magazine, and gun-house at the seat of government, and that they draw on the treasurer of the Western Shore for a sum not exceeding dollars.

Mr. M'Pherson reports a supplement to the act laying duties on licences to retailers of dry goods, and for other purposes.

Mr. Nicholson reports favorably on the petition of Wm Jacobs.

Mr. Stoddert reports a bill to vest in the levy courts the power to regulate all matters relative to the encouragement of the destruction of crows.

Mr. J. B. Eccleston reports favorably on the petition of John Glanville.

Mr. Millard obtained leave to report a bill to provide for the support of the poor of St. Mary's county,

The house adjourned.

Saturday Jan. 27.

PETITION

From John Mantz and others of Frederick that the appointment of inspectors of feather in Baltimore may be made by the executive.

Mr. T. W. Hall reports a bill to change part of the divisional line between the fourth and fifth election districts of Anne-Arundel.

The bill to regulate the inspection of flour in the city of Baltimore was taken up and after much debate and a variety of propositions of amendment, rejected by a vote of 36 to 30.

Mr. J. B. Eccleston offered for consideration a resolution in favor of Edward Wright, of Kent.

The house adjourned.

DIED,

At West Point, on the 17th instant, Cadet *Pinkney Davidson*, of Annapolis, Maryland, aged 16 years.

For nearly two years that Cadet Davidson had been a student of the military academy, he gave the most convincing proofs of superior talents, and a devotedness to the profession which he embraced. As a student, he was regular and distinguished; as a soldier, punctual and zealous, his heart was the seat of all the social affections; and whilst competing with his fellow students for distinction, he was characterized by an amiability of heart, and a modesty of deportment, that caused emulation to rejoice at his success rather than envy his superiority.—The interest that his merits had excited at the military academy, was increased by the peculiarity of his situation, and the regrets that his death has caused, are multiplied by a knowledge of the misfortunes with which his family has been visited. His grandfather fell during the revolution fighting the battles of his country, and death had also deprived him of his father and mother.—He appears to have been peculiarly endeared to a brother and sister, the only remains of his family, and who have to mourn the loss of one by whom they were idolized; and who, whilst wasting under disease and enduring the pains of approaching death, breathed for them the purest love, and the warmest affection.

NOTICE.

The monthly meeting of the Fire Engine Companies, will take place on Saturday next, at 3 o'clock P. M. at the Engine House.

Feb. 1.

JUST PUBLISHED

And for sale at the Stores of Geo. Shaw, Richard Ridgely and William Murdoch.

A LETTER.

TO A FRIEND ON THE

"Abstract of Unitarian Belief."

Feb. 1.