

ducted, must depend upon the binding obligation of the oaths to be taken by the judges who are to conduct them. Under this system, the strongest reason, therefore exists, why a strict compliance with the provisions of the law should be enforced, prescribing the qualification of the judge to be administered by the proper person, before "he proceeds to take or receive any vote." Where the elections are made *viva voce*, as they formerly were in Maryland, [and as they are made in that country which has been resorted to for precedents, which in this instance have not the force of application] if illegal votes are given, or frauds are practised in the polls, a scrutiny may be instituted by the proper authority, and the illegal votes, and the alleged frauds, may be fully detected and duly remedied. But where the elections are by ballot, the very design of the system prevents it from being known for whom the votes are given, and it is not to be ascertained, as in the other case, whether the frauds have been practised, or the illegal votes given *in favor* or *against* the candidates who are returned as elected. This course of reflection, if pursued, would suggest the most cogent reasons of public policy and justice, why those solemn sanctions, with which the law has intended to guard the exercise of the dearest privilege of freemen, should not be disregarded, more especially when the terms of the law, as in this instance, are, according to the view of the committee, peremptory and indispensable.

But it is objected that the returning judges of election, although by the express formula of the law they are bound to make a return "of the greatest number of legal votes," are yet not competent to decide upon the legality of any poll which may be offered to them; or, in other words, that they are bound to receive, as the legal poll of any district in their county, whatever paper may be offered to them as such, no matter in what shape it may appear or by whom it may be presented to them. It would be idle to detain the attention of this house on a position which thus retutes itself, and which is not more preposterous in its tenor than it would be mischievous in its effects.

Finally, it has been urged that no irregularity, omission, or misconduct of the judge, or other officer of election, can deprive the voters of their right. Now, in one sense this is literally true; but it seems that something more is meant than meets the ear. The meaning appears to be, that however irregularly or illegally an election may be held, although the proper officers appointed for holding such election should altogether neglect or violate their authority, or may have no concern in the election, and although none of the injunctions of the law are observed, yet still such election is to be deemed obligatory and conclusive on this house. That is to say, that the proceedings of any assemblage of persons, purporting to make an election of delegates to the general assembly, shall be received as a sufficient and valid election of such delegates. Your committee refer the house to the broad terms in which this doctrine has been avowed, in which it will be seen that they have not unfairly stated the monstrous evil to which it would practically extend. And your committee think themselves justified in asking, whether, upon such a subject, a more pernicious absurdity could be submitted to the consideration of this house; or any notion of a more fatal tendency to the constitutional liberties of this people.

Instead of examining these crude and untenable points of sophistical protestation, it would certainly be a more useful employment of the time of the house to devise some effectual remedy, by law, for the negligences or abuses which may occur under the present system of elections. Your committee had intended to report a bill to remedy existing defects, but they have understood that the matter is now under the consideration of a special committee appointed by the house for that purpose. They however, earnestly recommend, that the subject should be attended to, and provided for, before the session closes.

Having incorporated into this report whatever is deemed to be essentially true and correct in the said preamble and resolutions, and having pointed to the tissue of gross and dangerous errors contained therein, your committee conclude by recommending the following resolution:

*Resolved*, That the aforesaid preamble and resolutions be and they are hereby rejected.

By order,

LOUIS GASSAWAY, Clk.

*See page 86* On motion by Mr. Bayly, *Ordered*, That the said report be made the order of the day for Saturday next.

The house adjourns until to morrow morning 9 o'clock.

### WEDNESDAY, January 19, 1814.

THE House met.—Present the same members as on yesterday.—The Speaker attended and resumed the chair.

On motion by Mr. J. H. Thomas, *Ordered*, that the speaker nominate and appoint two committee clerks to serve the remainder of the session. The speaker appointed Wm. Bates and Charles Mann. *Ordered*, that they be qualified.

On motion by Mr. Plater, leave given to bring in a bill for recording certain wills in the Register's office in Saint Mary's county; *Ordered*, that Messrs Plater, Blackiston and Millard, be committee to prepare and bring in the same.

Mr. Hogg delivers a bill entitled, an act to incorporate a company for erecting a bridge over North East Creek, in Cecil county; which was read.

The bill entitled, an act authorising Richard Lawrence of Baltimore county, to remove a certain negro from the state of Delaware into this state; and the bill entitled, an act for the benefit of Hatfield Wright, of Caroline county, were severally read the second time, passed and sent to the senate.

Mr. Culbreth delivers a bill entitled, an act to repeal so much of the seventh section of the act of assembly, passed at November session, 1807 entitled, a further supplement to the act entitled, an act for the regulation and improvement of Denton, in Caroline county, as prohibits the raising and running at large of swine in the village of Denton aforesaid. And Mr. Potter a bill