

Remarks of John McMahon, in the House of delegates of Maryland, on 28th january, 1824, on the bill to confirm an act, entitled An [!] act to extend to all the citizens of Maryland the same civil rights

Remarks OF JOHN Von Sear M'MAHON, IN THE House of Delegates of Maryland, ON 28TH JANUARY, 1824, ON THE Bill to confirm An Act, entitled an An Act to extend to all the citizens of Maryland the same civil rights and religious privileges that are enjoyed under the constitution of the U.States.

25.10

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To the Editor of the Torch Light—

SIR—It has become so fashionable in these days of wordy war for our declaimers and orators, even those of the most distinguished order, to play reporters to themselves, to hand out their own productions to the world, sometimes to criticise them and sometimes even to play the part of self-puffers in regard to them, that surely the smaller fry, the ignoble crowd of inferior speakers, who are born but for imitation, and who, by long continued gazing upon the models set up before them for that purpose, have grown blind to their defects, would seem to need no other apology for acts which do, it must be confessed, wear on their very face a ridiculous, conceited air, than that which is to be found in the influence of great examples, daily and hourly placed before their eyes in the political world. If but too frequently they are illy rewarded for their pains, if but too often

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they fall flat in their attempts, if but too often they meet with contempt or ridicule where they had hoped for admiration, they can fold up their arms in perfect contentment and console themselves by the reflection, that at least they have manifested in their acts one of the characteristics of great minds, that they have fallen in great attempts, in doing that which the great daily practise.

In truth, there seems to be no sufficient reason why we should deny to declaimers the same dear privilege which men in every rank and in every condition in society frequently exercise; the inestimable privilege of bestowing a little self-praise, and of occasionally thrusting their own works or their own 4 productions upon the world, as having a right to challenge for themselves some degree of its admiration and applause. The Poet cries “ *Fresh fish from Helicon, who'll buy?* ” The Physician occasionally tells us that he has lounged away one or two winters within the walls of an university. The Merchant, even in country towns, as inconsiderable as our own, vapours away at an amusing rate about the price and quality of his goods; and the Tradesman takes care to let us know that he executes his work in a neat and masterly manner. Why then may not the public speaker, without alarming the self-conceit of others, play his part also upon the stage of vanity? It is true, that in general, men are somewhat better qualified for playing the part of self-critics, than that of self-reporters, if I may so speak. It has been very properly observed by a modern author, that literary men in criticising their own works, have in general an immense advantage over others, for it is quite certain, that they have read what they criticise; and it might be supposed that the same advantage would result from self-reporting, a term which I must be permitted to use for the occasion, as the reporter must in general know what he himself has said,

The complaint has, however, become very general in these our days against such reporters: That they so load the original with dress which did not primarily belong to it, so flounce it and furbelow it, that it is difficult, and in some instances almost impossible to recognize it when buried in this adventitious apparel. In such cases the world should have some little regard for the feelings of a parent, and should pardon his delicate efforts

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to clothe the nakedness of his offspring before he sends it into the world. Although this practice of self-reporting has grown to such a height, and although it carries with it such commanding examples and weighty names as would suffice to bear down any ordinary opposition, 5 and would render any apology for conforming to is unnecessary, let me in a few words assign the reasons for my determination to furnish you, at your request, with the substantial part of the Remarks made by myself during the late session of the General Assembly of Maryland, upon the Bill for the removal of that clause of our Constitution prescribing a Religious Test to be administered in order to the enjoyment of civil offices. If the occasion had wholly passed by—if the question had been finally settled which called them forth, then there would have been little to plead for the tender of them, save the gratification of an innocent vanity, or if we would use the modest phrases of modern times, of the earnest and irrepressible desires of a few friends.

But the occasion is a present and abiding one; they are now as applicable as they were when delivered. If they ever carried aught of conviction and power, in order to the removal of what cannot but be deemed a stain on our Constitution, they ought still to have the same efficacy until it be wiped away. This controversy has indeed grown grey-headed, but the friends of the Bill lately rejected, have no reason to despair of its ultimate success, so soon as the efforts of intelligent men throughout the state shall have unfolded the real tendency and design of that Bill. Like one of the fabled giants of antiquity, it has gathered new strength from each overthrow; and the time is not far distant in the perspective, when it will, in its turn, prostrate its opponents—The people of this state, in some sections of it, have been taught to believe, that this is a question of predominance between Christianity and Judaism—that the Christian Religion itself is in danger—that all its legal props are about to be taken away; every object of the highest sanctity in our land made liable to be trampled under foot by the reviling infidel; and they have sometimes even been menaced with an inundation of infidels of every hue and of all casts, and 6 with Synagogues, Mosques and Pagodas starting up around them on all sides on the ruins of Christian Temples. They are yet to be told in many sections of our state, that this *Camel Bill* which

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was to swallow up all our christian institutions, is simply a bill proposing to give to the citizens of our state a right of electing whom they may please; that it is a bill founded wholly upon the mild and benignant doctrines of their Gospel, which teach them to yield to every man his due, to give to every citizen having the necessary civic qualifications, the civil and political rights which those qualifications entitle him to, without diving into his heart and setting up in bar to the enjoyment of those rights, religious opinions and practices which are matters wholly between himself and the God whose creature he is. They are yet to be told, that this is a Bill which refers them to the operations of God in the natural world; and which calls upon them to contrast their Creator's actions and their Creator's doctrines with their own. He sends his rain upon the just & upon the unjust. He lavishes the goods of this life even upon unnatural and disobedient subjects. We refuse civil and political rights even to good, faithful and obedient subjects.

Had the question been proposed to the people of this state in its nakedness, such as it is, I should blush for my native state, but for the belief that this clause would have been long since expunged from our Constitution—If they had been asked, Are you afraid to trust yourselves? Are you afraid to take into your own hands the right of electing whom you may please? They would have regarded the bare doubt implied in the question, as a libel upon their understandings. And yet it is undeniably true, that in regard to this question the people in some parts of our state have been *self-fearers* —They have been starting at bug-bears and shadows, which, when nearer approached and when released from the obscurity in which they were involved, they discover to be but 7 their own shadows. Upon those whom I have had the honor of representing, I cannot with propriety charge any such misapprehensions; and there is reason to rejoice in the knowledge, that whilst our fellow citizens in other sections of the state have discovered on this subject an unusual and unaccountable degree of excitement and irritation, and start at the mention of a Test Bill as an hydrophobiast at the sight of water, the citizens of this county have always regarded it with the mildness and temperance which becomes discreet and reflecting men. For their opinions I have already undertaken to give a pledge, and that pledge, I am assured, they

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will redeem. To them however, I would wish to submit my views for their approbation, for which I would fain hope and with which I should not be lightly pleased. The Delegate should never fear to render an account of his stewardship; nay, he should rather render it unasked, and although he should not run the insect race after popularity, still should he not despise it when it may follow him in the discharge of duty. In submitting these remarks, I have found it impossible to recall the language of the moment. That energy of feeling which prompted it has passed away. The substantial part of them I am enabled to furnish from brief notes or memoranda, made both before and after their delivery, to which I have confined myself, taking care not to advance any arguments which do not appear from these memoranda to have been substantially made. In sketching out and filling up these, I have experienced all those difficulties which speakers must ever feel when attempting to enclose the warm, energetic and concise language of the declaimer, in the strait jacket of cold and formal writing. Language is now the only vehicle of thoughts then much more forcibly expressed by a look or a gesture; and hence the opening remarks have swelled to such a size as to compel the abandonment of my original intention, to incorporate a few remarks elicited by the debate in opposition; these have been wholly omitted with the exception of the last observations herein contained. In the public's hands they are left, to submit to the fate they merit, whether good or ill.

Yours, Respectfully, JOHN V. L. M'MAHON.

Cumberland, 1824.

REMARKS.

Mr. Speaker —

If my esteemed friend, the gentleman who last addressed you, has had cause to tremble for his temerity in approaching with youth and inexperience, a question at whose feet the stores of hoary-headed experience and the dictates of learning and wisdom have so often been laid in this House and elsewhere, with how much fear and trembling, with how

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much humility should I, upon whom these incumbrances hang doubly heavy, approach and present my little but heart-bestowed offering. Still, although fearing that my views may be lost in the lustre of those heretofore presented, that I can add nothing to the mass of information relative to this subject at present before the public, that I cannot impart to others the convictions which have been forced upon my mind by these views, and although those are waiting near me who would bear away to public view and submit to the painful inspection of cold-hearted criticism, my necessarily imperfect remarks, still will I offer them, still will I urge them upon this House. On this occasion men may impute to me the hasty mind, the weak head or the faltering tongue, but never the faint heart. If, sir, my remarks could carry with them into the world, that zeal and energy which give rise to them and which alone give them aught of life and power that they may possess, it would be more gratifying to him who offers them.

In attempting to enter upon the discussions which B 10 grow out of this question, I find myself beset on all sides by objections which I cannot designate by any more appropriate term than that of “threshold objections;” objections which lie at the door of this subject, and which would fain shut it in from view and preclude us from entrance to it.

Amongst these the most prominent, that whose influence I most fear, and that which in truth deserves the most consideration, is—“That in determining this question we are but blind agents; that however extensive and uncontroled our powers as delegates may be on questions of a different cast, yet this is an occasion on which our law requires us blindly to obey the impulse given by the will of our constituents, without in any degree consulting our individual opinions or wishes: That this question has been submitted for decision to the proper tribunal, the citizens of your state, and has been determined in the negative almost by acclamation.” This objection says then to those who would combat an opinion deemed to have been so strongly and decidedly expressed by the citizens of Maryland: In vain will you appeal to the reason—in vain will you endeavor to enlist the feelings of those who represent the people thus decided in their opinions. On this subject their mouths are

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sealed—their hearts and minds padlocked—hearing they must not hear, seeing they must not see.

This is an objection which, in common with some others hereafter to be noticed, has been bandied out from mouth to mouth, and the use of which in the course of this debate we may reasonably anticipate. It is well therefore, to meet it in a timely manner. If we are indeed, as it would have us to believe, the mere machines of the people; if we dare not now exercise the faculties which alone have entitled us to a place in this house; and if those behind the scenes and in whose hands we are as clay in the potter's hands, have given the direction to our motions, hopeless indeed it would be the attempt to give them a different direction. But, sir, let us examine this proposition in all its parts; let us enquire how far, on occasions such as the present, our constituents are authorized to give us imperative instructions? and how far we ought to regard ourselves as bound to obey them? and yet further, how has the public will been expressed? what evidences have we before us of that expression? and on which side do they lie? It is at present wholly unnecessary to travel into the general question of the right of the constituent to instruct, and of the duty of the representative to obey the instruction given, inasmuch as we may safely concede the right of instruction, with certain limitations, on such occasions as the present.

It may not, however, be amiss in passing it by to remark: that every member of the House is clothed with a two-fold representative character: that he represents two interests which, it is to be hoped, will always be found consistent and compatible with each other, but which have not equal claims upon his consideration, the one being an interest which must always bow the head to the other. Although chosen as the representatives of several counties, in one respect we are all alike; we are all the representatives of the state of Maryland. This is our highest and it should be our proudest title. Although in common parlance the representatives of a single county, we are not therefore to promote the interests and gratify the feelings of those by whom we have been immediately deputed, to the utter disregard of those of the inhabitants of other sections of the state. On ordinary

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occasions we should hold the will of our constituents and their interests in subservience to the general interests, and thus bounded, if rational, they should in most cases be indulged.

Sir, at the present time, I am, as I think, willing to go as far for the sake of concession and for the purpose of strengthening what I may have to say, as I may have, the most strenuous opponent of the bill before you. Let it be conceded that the people have, on this question, a right to require pledges of candidates for their favor, and to instruct those whom they have elected—Why have they this power? It is, Mr. Speaker, *because we are at this moment to be regarded as in convention for the purpose of amending the constitution of our state*. In providing a mode of amending or remodeling that constitution, the framers of it seem to have had in view a double object. It would not have deserved the name of a constitution, it could not have been more regarded as clothed with sanctity and entitled to reverence than laws of every-day enactment, had it not been placed beyond the reach of ordinary legislation. Framed, as it had been, with the utmost care and caution, it was proper that some mode of amendment should be adopted which would be likely to call forth the same care and caution in every act of modification or alteration. The question then occurred, how is this object to be effected without incurring all the delays and difficulties incident to the call of a convention? By our present constitution many institutions and doctrines were placed beyond the scope of the powers of ordinary legislation, which had no intrinsic claim to such—many trivial and unimportant regulations had been classed with standard political principles. Its framers had reason to believe, what experience has since taught us, that frequent amendments would become necessary, more especially in these unimportant, and therefore it behoved them to cast about them for some mode of amendment of it, referring the power to the same source, but less dilatory and less costly than that by call of a convention. By the adoption of the present mode they have contrived to blend the powers of ordinary with those of a special delegation in relation to acts alterative or amendatory of the constitution.

This mode, when analysed, is separable into three 13 distinct operations. The passage of the first, or initiatory act, if I may so speak—the publication of that act—and the act of final

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passage or ratification. In what light are these several operations to be viewed? In relation to all matters coming within the pale of the powers of ordinary legislation, every law which the General Assembly of Maryland may pass, is regarded as an absolute expression of the opinions and wishes of a majority of its citizens—It is their wish and their will, expressed through the proper organs of communication.

In the first passage, however, of an act amendatory of the constitution, of the mere initiatory act, which is merely designed to throw the question before the people in order to decision by them, the Delegates are not permitted to express a positive and absolute opinion as to their constituents' desires or views. The constitution tells them, "This is a matter too important to admit of surmises as to the people's will—You indeed come directly from amongst them, filled with their opinions and glowing with their feelings; and therefore much respect is to be paid to your representations: but they can only be received as *prima facie* evidence of the will of those whom you represent—To your constituents will we refer it to ascertain whether you have been mistaken or deceived; whether the opinion which you have expressed is the opinion which they entertain"—and by their succeeding Delegates they can specially declare if they have aught to say against the reception of the first act as evidencing their opinions as to the propriety of the proposed alteration. Accustomed to technicalities, the House will pardon me when I would borrow one from a profession abounding in them; and when I would liken the passage of the present act by the last House of Delegates to a rule nisi, laid upon, to a rule requiring them to come forward and express their opinions in a decided and unequivocal manner: or that otherwise that act will be received by the next General Assembly as an absolute expression of them: It calls upon them to come forward and shew cause against its passage; and that they may know the provisions of the alterative or amendatory act, it is sent out to them by publication.

This law, sir, has been thus submitted; by that submission the people of this state have been called upon to say if their opinions and desires have been misrepresented, and if so, they have been and are now required to proclaim it in this House. We are now sitting in

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convention, that the people of Maryland may shew cause, if any they have, why this bill should not pass.

This view renders the question at present before us, a very different one from that which presents itself on the passage of an ordinary law. By the passage of this act by the late House of Delegates, the burthen of proof has been thrown wholly on the one side. It is not necessary or proper for the advocates of this bill to cast about them for some evidences of the people's will; it does not become them even to enquire.—They are seen glaring in the bill itself. Sir, the people's will has already been stamped upon it; and we are bound to receive it as current unless they falsify it, unless they allege it to be a counterfeit stamp.

Have they done so? Do they so now? Who are they who would shew cause for them against the passage of this bill? Where are the credentials of their special delegation? They are, as I think, to be found only in some distinct and unequivocal expression of opinion by the people directly to the contrary. If they have deemed it proper in any section of this state to require pledges of candidates for their favor, that if elected they will use their endeavors to prevent the passage of this bill; and if such pledges have been given when required, let those who have given them advance and offer their 15 objections; they have their credentials. If any members of this House, either for the purpose of furthering their interests, or through an honest conviction of the impropriety of passing the present bill, did voluntarily and unasked, tender to those whose favor they were seeking a pledge of opposition to this bill, before they were clothed with the representative character, and whilst they yet stood in the precarious condition of candidates; such an expression of their opinions must be regarded as one of the inducements to their election; let them advance and offer their objections; they have their credentials. Are there any present coming as delegates from counties in which, by public assemblages or in some other equally unequivocal manner, a majority of their constituents have manifested their decided opposition to the passage of this bill; let such approach and offer their objections; they have their credentials.

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Are there any amongst us who, in imitation of the Priestess of Dodona, who was wont to go out and listen to the rustling of the wind amongst the leaves of the sacred tree, and thence to infer the will of deity; are there any who have gone out and have listened to the rustling of noisy clamor amongst the people, who have thence inferred the will, and who now approach, bearing that clamor as an evidence of it? Let none such approach to offer their objections; they have not their credentials. If such clamor were to be received as evidence of the people's will, then would it ever be in the power of a few noisy, interested or unthinking men, to drown the voices of prudence, reflection and wisdom. Sir, this is not that kind of expression of their wills which our constitution calls upon them to tender on the passage of such bills as the present. It must be an expression made understandingly —If I may so speak, it must be made soberly and temperately.—Experience will justify me in the assertion, that the 16 noisy and clamorous in every community are not those who give the tone to public opinion; that they are ever ready to be the whippers-in of the more reflecting; and, sir, had an expression of the public sentiment been called for and given in some unequivocal manner, many of the loudest amongst the first confounded by the opposition and awed by the prudence of the latter, would probably have been found thereafter yelling as loudly in favor of this bill as they now are against it.

Let it not be said, that as no such temperate and deliberate expression of their opinions has been made, we must receive those clamors as the best evidence of them which can now be had. Sir, there is better and higher evidence in the act before you. It has the people's stamp upon, and clamors will not falsify it. Are there any who would approach us with surmises and mere suppositions as to the will of their constituents? For the same reasons would we say, Let none such approach; they have not their credentials.

But, sir, there are pledges on both sides of this question; if we have no such credentials as those above described, to authorise us to protest against the passage of this bill, we have no option; we stand pledged to our constitution to ratify it. The people have been silent; their opposing voice is not distinctly heard in this House; and such silence we are

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bound to regard as an assent. Array then the forces—Let those thus authorised to oppose this bill secede from those not thus authorised, and it will be found that the opposition has dwindled to a speck. Yet the friends of this bill cannot wish or ask, that the mouth should be closed or the exercise of the judgment occluded as to its merits. This view has not been taken for that purpose. It has only been taken for the purpose of removing those vague notions as to pledges, which, if indulged, portend defeat to this bill. It is that the members of this 17 House may not bow down to the Moloch of this day, that ephemeral, butterfly popularity, which is ever whispering in their ears, *what will your constituents say?* and which makes them start back even from the brink of a good action, as from the brink of a precipice;—It is that they may go out with the answer in their mouths to all the invectives of those constituents, Your late Delegates had expressed your sentiments upon this bill, and I am bound to receive it as evidence of them, until some deliberate opinion to the contrary had been expressed by you and communicated to me.

Our mouths then are not sealed upon this subject, and we may approach another of the objections which would shut us out from the consideration of the main question—It has been objected to the repeal proposed by this act, in common with all other repealing acts of the same description, that alterations of our constitution have been too frequent in latter days—that this frequency and the facility of amendment of it have given rise to a spirit of innovation throughout the community which has too often caused our citizens to lose sight of the sanctity of constitutional provisions—that hence the latter have ceased to be regarded, as entitled to any higher respect than the most ordinary enactments, and that it is now proper to repress this innovating spirit, to stay in its progress, ere it tramples under foot our most precious political institutions and maxims. It is said that every such alteration, unless it be made for the removal of some gross and crying inconvenience or injustice, actual and practical injury, should be pertinaciously resisted; and that they ought not to be listened to, who would have us to work such alteration merely for the purpose of giving imaginary beauty or theoretical consistence to our constitution. This objection, if applied to the bill before us, supposes two things—It regards the provisions of our constitution

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which this bill designs to take away, as C 18 furnishing conclusive evidence—“That in the opinion of the framers of that constitution, Religious Tests were proper, and ought to be adopted in order to admission to civil offices—that men ought to be excluded from civil rights, because of their adherence to particular religious opinions—that the christian religion ought not only to be established, but that christians alone ought to be placed in the seats of civil power—and that the present test is an effectual mode of ascertaining the existence of christian principles and characters.”

It supposes yet further, “That although it may not altogether comport with those liberal and expanded political principles which regard religion as a matter between man and his God, as indeed better qualifying, yet in the present depraved state of human nature, not to be regarded as absolutely necessary to the enjoyment of mere civil rights; still this provision of our constitution works no actual wrong or injustice, and that therefore it ought not to be removed merely for the purpose of giving a greater degree of theoretical beauty to our constitution.” These are all premises which, it is thought, no friend to this bill and no dispassionate man can admit.

Sir, the friends of this bill approach with as much reverence the ark of the constitution as its enemies. Equally strong is their desire, that many of its provisions, as enbalming the most precious political doctrines, adapted to all ages and to all climes, should always be regarded with the utmost reverence. But they cannot believe that their sanctity will be heightened, or that they will be more effectually shielded from the attack of innovation, by throwing their mantle over our institutions and doctrines, less worthy of regard, and which of themselves furnish cause of exception. They would rather look upon such exceptionable doctrines and institutions as weeds which defile the fair garden of the constitution, and which do but cloud the beauty of the brightest flowers 19 it bears. The plucking up of the former they would regard as having a tendency to enhance the beauty and brightness of the latter. They regard, sir, the present age as a proud age—as the age of constitutions in which man, in imitation of the Author of his being, who is seen daily working around him according to rules prescribed to himself, is also seen laying down rules and maxims for his

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own government in the political world: and as laying aside some of these as in a sanctuary into which the feet of ordinary legislation never can intrude, and which none can approach but those specially delegated. They admit it to be right and proper, that there should be some parts of every system of human government, some rules of governing, which having been established by the people, after the maturest and most cautious deliberation, should not be liable to change, except after a call of like attention and reflection on their part on the change proposed; otherwise they would be the sport and play thing of every succession of delegates.

Sir, if we look throughout our state and through this House, we will find that there have sprung up amongst us two sects, holding directly opposite opinions in relation to the propriety of amending our constitution. In regarding it, one cannot but be reminded of the controversies which have so often agitated the *literary* world in relation to the relative merits of ancient and modern writers, in which the one party deemed every thing hallowed that came from the pen of antiquity, and all else undeserving of applause; whilst the other, running directly to the other extreme, condemned indiscriminately because of antiquity, and admired as indiscriminately because of novelty. Such is the conduct of these sects in regard to our constitution. The one looks upon that constitution as a perfect grey beard, and its followers would treat it as the Thibetians are said to act in relation to their Grand Lama; they would take it, although a mere work of mortality, hang it up as an object of adoration, cast a veil over it to shut in all its imperfections from their view, pronounce it spotless, and fall down before it and worship it as faultless and perfect. The followers of the other maintain, that for ages past mankind has been continually on the advance in all respects; and that the science of human government and the knowledge of the principles of civil and political liberty, have been progressing in common with all things else; they contend that at the time of the formation of our present constitution, the world was yet, in some respects, a novice in relation to the proper construction of republican governments—that our ancestors had not the benefit of those lights of experience which we of this day enjoy, from having witnessed the operation of our government and the governments of the

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sister states around us for nearly half a century past; and that although this constitution, which they have framed, is the best which the wisdom and experience of their days could furnish, it still lags far behind the more improved and more accurate notions of modern times. They allege that it was adapted to a state of things which no longer exists; that the original equality or proportions of population in the several counties have not been preserved—that population has changed its residence, and that it is now full time that we should tear this constitution to pieces, leave not one stone upon another, and build up a new one, upon more enlarged principles and adapted to the existing state of things.

In relation to these adverse sects, the old maxim happily illustrated and enforced by the fables of antiquity, prescribes the course proper to be pursued—“ *keep the middle way* ”—we should imitate in regard to them the conduct of a celebrated philosopher of antiquity, who, finding many ethical sects around him maintaining doctrines directly opposed to each other in relation to morals, each holding much that was good, blended with much that was exceptionable, undertook to select from each what he deemed worthy of approbation, classified them, and made them the doctrines of a sect at the head of which he placed himself as the founder, and which he styled “ *the eclectic sect,* ” because its tenets were selected from those of all other sects. So, sir, would I number myself amongst the followers of “*the eclectic constitutional sect;*” and I must be indulged this day in promulgating a few of the doctrines which might reasonably be ascribed to such a sect in regard to amendments of the constitution, that I may apply them to the bill before us.

They teach us, that our constitution is not only entitled to a peculiar degree of regard as such, and because placed beyond the reach of ordinary legislation, but they also point us to the exigencies of the times in which, and the peculiar circumstances under which it was framed, as all tending to enhance that regard. They shew us that it was formed at a moment when all our citizens, who were not of too loyal a cast, had but one mind and one soul under a sense of the common danger which pressed upon them; at a moment when all private and selfish considerations were in a great degree swallowed up in zeal and energy in the public cause; at a moment when by the collisions of the times, more

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vigor and activity of mind was called forth, and a higher degree of political wisdom evinced, than has since been displayed in our legislative halls or elsewhere in our state, in the long, and for the most part, the sleepy interval which has since elapsed. They teach us that a constitution thus framed must be taken to be the result of more wisdom and of a higher regard for the public welfare, apart from sectional jealousies, than we could expect to call into exercise in these less trying, less dangerous days—these days of internal dissention and causeless local jealousies.—They teach us yet further, that every year and every 22 day's successful operation of this constitution, without working inconvenience or injustice, should but the more hallow it in our affections.

On the other hand, they would teach us, that this constitution, although framed under all these advantageous circumstances, is yet the mere work of mortality; and that as all human productions, it must have as its inseparable incidents, *imperfection* and *error*. — They would remind those who cry out against amendment of it, that they aim at being wiser than that instrument itself which pre-supposes error or imperfection as residing in it, and provides for its removal. They would deride those who express a wish that we had an unchangeable constitution, until they can point out some mode by which man, for whose government it is intended, can also be rendered an unchangeable being— They would regard the antiquity of all provisions of an arbitrary or indifferent character, found in that instrument, and involving only questions of expediency and not of right or justice, as furnishing in most cases a conclusive reason for the continuance of them; but they would remind us at the same time that antiquity never sanctifies error or throws the cloak of protection and immunity over wrong and injustice; and that which was wrong & unjust in its inception will never become right and proper by lapse of time, although mortals had daily practised it and had interwoven it with their every institution. But the most important truth which they would inculcate is, that when it is objected to a proposed alteration of the constitution, that it is to be made in the face of calm and deliberate opinions to the contrary, expressed by its enlightened and revered framers, they should do something more than adduce the mere instrument itself; that instrument, to say the

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most of it, evidences nothing more than the existence of such an opinion under the then circumstances, and they must go yet further and show that no change of circumstances 23 has occurred to justify a correspondent change of opinion: and that in fact at the very time of enactment of the clause in question they had fully in view the incompatibility of it, with their declarations elsewhere contained in the same instrument, and with the enlightened principles which they themselves have promulged, and saw clearly all the individual inconveniences it would work, all the oppressive consequences which would flow from its operation, and that with all these things fully before their eyes, they yet deemed it proper to incorporate the provision in question with our constitution.

These, sir, are all doctrines to which the mind of every man must yield assent. If we apply them to the case before us, what then becomes of the constitutional objection?

Let us for a moment admit that the opinion of the framers of that instrument does stand foot to foot and face to face, against the proposed repeal; still if gentlemen of this House will but listen, and can but satisfy themselves—"That the exclusion of men from civil offices because of the maintenance of particular religious opinions having no immediate connection with human government, is an unnecessary restriction upon the right of election residing in the people, and an unjust denial of political rights."—They cannot, they must not, shelter themselves behind the musty opinions of antiquity. If they do, reason will pursue them and pluck them from their hiding-place. Hoary-headed wrong is, therefore, not the less wrong. This view will, I trust, serve to remove some unaccountable squeamishness which is evinced by some amongst us in regard to the removal of a provision of our constitution which they themselves deem and which they admit to be of oppressive and iniquitous operation. There are in this House, sir, who in conversation with me, have frankly admitted, that were they now called upon to frame a new constitution for the state of Maryland, 24 they would most strenuously oppose every attempt to incorporate with it such a provision as this bill proposes to remove; they would look upon it as unsuited to the age, and as unworthy of christians and freemen. But, say they, it is a part of a sacred instrument on which we dare not lay our hands.—There are, it is true,

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many provisions in the present constitution which, were I called upon for a like purpose, I would unhesitatingly exclude from one now to be framed, and which yet I would desire to retain in that which we now have. But it is only in relation to provisions of an arbitrary and indifferent character, involving only questions of expediency, that I could thus act. Never could I attempt to plead prescription and antiquity for manifest injustice. If we would not now incorporate it with our constitution, we dare not now continue it without subjecting ourselves to the same imputation of working wrong and oppression which could be made as to those who originally introduced it. Nay, sir, greater is our criminality, as with them all the wrong which it might work lay hid in futurity, was of doubtful occurrence or at least but matter of anticipation; with us it is illustrated by all the past and by all that is passing. If ever there were a case in which the iniquities of the fathers rest and abide upon their children, this is that case.

But the concession—“ *That their opinions do maintain the propriety of religious tests under existing circumstances,* ” has been made only for concession's sake; and I must now beg leave to retract it. From a careful view of the acts of those illustrious men, of their feelings and principles, as shewn in their actings out and in their declarations, existing upon the face of this constitution and declaration of rights. From a survey of the state of religious tests during the proprietary government, and from a slight knowledge of the character of the times in which these instruments were framed, is the assertion 25 fearlessly hazarded—That were they in our steads this day, could they rise from their graves and sit in judgment upon their own acts, another sun would not dawn upon this article of our constitution.

Sir, when we look to the circumstances under which the country we now inhabit, was colonized, when we remember the causes which peopled this once howling wilderness, are we not struck with the unexpected contrast between the occurrences of that day, which gave a population to these shores, and the occurrences of the few last years? Are we not ready to laugh or weep at inconsistent, dove-tailed human nature, when this contrast shews us the descendants of those very men who were driven from the abodes of

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civilization and all the smiling enjoyments of society, to tenant, with the less savage beasts of these shores, by ruthless persecution for religious opinions, in their turn commencing and most pertinaciously adhering to the same system of civil persecution which, altho' it at present only extends civil disabilities because of religious opinions, to the right of holding offices, may yet with equal propriety be extended to the deprivation of every civil and political right. The children of the scourged are seen taking up the same whip with which their ancestors were scourged, and in their turn becoming scourgers.

At the time of the emigration of the first colonists of Maryland, England, the mother country, exhibited the strange spectacle of two contending religious sects, perfect antipodes to each other in religious ceremonies, and in many of their most important doctrines, nourishing the most deadly mutual hatred of the observances of each other, and yet alike prostrate before the arm of a hierarchy which maintained the middle ground in point of ceremony and doctrine between the prostrate sects. Scarcely resembling each other in any other particular, save that of being alike the objects of an untiring persecution—the followers of these sects were seen flying at the D 26 same moment, early in the 17th century, from the arm of civil power. The Puritan was seen seeking the northern parts of these United States, whilst the Catholic found for himself a home in its southern parts, but more especially in the present territory of the State of Maryland.

It is but too natural and too usual for mankind, instead of learning humanity and moderation from having experienced, in their own persons, the ill effects of inhumanity and intolerance, to discover in their conduct towards others, whilst they are yet smarting under the wrongs and injuries inflicted upon them, a spice of the same spirit which had caused the infliction of those injuries. Although such conduct might not in the abstract have been regarded as rational, we could not have been surprised or shocked to any great degree, had we discovered the Catholic of Maryland, when once securely sheltered in this province, leveling at the heads of churchmen the same civil penalties which had been denounced against the profession of his religion in the mother country. Such conduct would have been much more excusable at that day than it is at this; and it is

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highly probable that it would have been matter of history, had not the arm of the mother country extended itself even over this remote province. Be the cause what it may, in all the early legislative acts of the province, a spirit of religious toleration was evinced, such as was not to be expected from the temper and character of the age; an age in which tolerance was just reviving, after a sleep of many centuries. In an act of the Provincial Legislature, passed during the year 1649, we find the colonists promulgating the wise and liberal, doctrine, "That the enforcing of the conscience hath frequently fallen out to be of dangerous consequence in those commonwealths where it hath been practised," and by the same act and other subsequent acts affirmatory of it, we find them extending equal civil rights to christians of all denominations—a very great stretch of toleration for that day.—No exclusive support or establishment of any religious sect took place until the year 1692, when this state was first partitioned into parishes and a tax imposed on each taxable for the support of the Church of England. At this time the proprietary powers were in the hands of William and Mary, the Sovereigns of England, by whom they had been seized in 1688, on the downfall of the Catholic dynasty in the mother country—still it was conceived that enough was not done for the security of the Protestant succession to the English Throne, the plausible excuse in those days for religious intolerance. Several laws were subsequently passed prescribing religious tests in order to the exclusion of the Catholic, which were however, all swallowed up in the Draconian law of 1716. By this law religious tests were prescribed, which continued to exist until the downfall of the Provincial Government.

Permit me, sir, to call your attention and the attention of this House to the provisions of this act, as displaying the character and extent of religious tests in Maryland, before and at the time of adoption of her present constitution. Such a view seems to me to furnish some reasons why the present religious test has crept into our constitution, wholly distinct from a belief on the part of its framers that it was intrinsically proper, and which will fully account for its insertion without requiring us to swallow the notion, "that our ancestors did regard

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a connection of civil government with religion, by religious tests, as abstractly right and proper”—a notion which their acts and declarations elsewhere wholly discountenance.

Before the passage of this act the lord proprietary, himself a Catholic, and a descendant of an ancient Catholic family, had been restored by the English King to his proprietary rights; but the enjoyment of them was clogged by the provisions of the above cited act, passed during the year of his restoration 28 to them and requiring the administration of the tests therein prescribed, in order to the security of the *eminent dominion* of the Protestant dynasty then on the English Throne. This law required, “That in order to the enjoyment of any office or place of trust, the persons claiming the enjoyment of it should first take the oath of allegiance to the English King,” should solemnly renounce the king-killing doctrine, as it was termed in those days, or the doctrine “That Princes excommunicated or deposed by the see of Rome may be deposed or murdered by their subjects;” *and also the doctrine*, “That any foreign potentate or prelate hath any supremacy or even authority, spiritual or temporal, within the British Dominions;” that they should take the oath of abjuration of the pretender, and that they should make and subscribe a declaration of their disbelief of the doctrine of transubstantiation. Hence it is obvious that the sole intent of the act of 1716, and the acts passed previously thereto, and prescribing religious tests, was to exclude from the civil offices of the state the Catholics of Maryland, who constituted a large and highly respectable portion of the citizens of the province, and who, it was to be feared, might bring into office with them some predilections for the deposed King James and his children, the pretenders, which might lead them to forget the allegiance due to the Protestant family then on the English Throne: and might induce them to lend their official powers in regaining their lost dignities. From that family if restored, they had every reason to expect the re-establishment of the Catholic religion.

Does not a knowledge of these facts seem to give a very different aspect to this clause of our constitution? Does not it seem a concession by a dominant to a prostrate religious sect, in making which, the interests or rights of others, were not had in view, rather than an enactment willingly made, and made under an earnest conviction that none but christians

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29 ought to be placed, even by the people, in seats of power or trust? At the moment of formation of our constitution, when a common sense of danger and a community of interests united all men who cherished any degree of regard for the ultimate success of our revolutionary struggle, and when the inhabitants of the province of Maryland were about forever to take leave of the dynasty, for whose security the act of 1716 and all previous laws of a like character, had been passed, it might have been expected that religious tests would have expired in this state with the political causes which gave rise to them—It was not because our ancestors thought differently, that this clause found its way into our constitution. In all human laws it is generally found that the remedies which they furnish, although required in many cases which are of possible or probable occurrence, are yet in terms and by express language extended only to those cases of inconvenience or injury, which are daily experienced or are daily staring us in the face; whilst to those which *may* occur and which equally demand legislative interposition, they are not applied simply because they are not of daily and because the necessity of legislative interposition is not equally obvious or striking. How many are the instances in which it is necessary, by *judicial* construction, to extend the operation of an act beyond its express letter to cases not enumerated, but coming fully within the mischief designed to be remedied? How many are the instances in which application is made to us and has been made to every preceding Legislature, to relieve against the consequences of a like oversight? Men seldom act from possible or probable cases; always on those of present existence—they see only the injury which is before them, and are blind to that which may arise.

Hence the clause which this bill proposes to repeal. When the framers of our constitution looked around them, that they might see the extent of civil 30 disqualifications flowing from the maintenance of religious opinions, they saw the whole force and operation of the then existing act of 1716, exhausted on the Catholics of Maryland. Under that act, all persons who would take the required oaths, and who would make the required abjuration and declaration, were they christians or otherwise, were alike admissible to places of power or trust; the only discrimination which they perceived to be made by our laws was

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that between *christian* and *christian*, between Protestant and Catholic; and this they found flowing from political reasons which died in this state with the dominion of the British king. What then is the purport of the language of this clause? The odious discriminations, says it in effect, which have heretofore existed between christians of different denominations for specious political reasons, shall now cease to exist; we are brethren of the same christian family, and it is proper that the tomahawk of civil disqualification which has heretofore been wielded against some of us, should now be forever buried. Therefore, all persons who will declare their belief in the christian religion, shall, by the will of the people, enjoy any of the offices of profit or trust in this state. By this extension of civil rights, they had completely covered all the cases of political disqualification then before their eyes. At that time, the population of Maryland was almost exclusively, nay, I may say entirely christian, and none but christians seemed to languish under the operation of religious tests.

Sir, this clause of our constitution was then regarded but as a treaty of amity between contending christian sects; and as well might you infer from a common treaty of amity between nations, a determination not to admit at any time afterwards, other nations not parties to that treaty, whether nations then in existence or afterwards to arise, to any friendly intercourse with themselves, as infer from this clause 31 of our constitution a determination on the part of our ancestors to exclude all but christians from civil communion with them. The case had not then occurred which now presents itself to us—At that moment the bright destinies of our country were all hidden in the womb of time—At that moment it could scarcely have entered into the mind of man to conceive, that the small seed which was then cast into the earth, should after the lapse of so short a time, have become a great tree, upon whose boughs the choicest civil and political blessings should be resting, and under whose shade men of all nations, of all tongues, and of all religions, should be seen taking refuge from the scorching rays of civil and religious oppression. Now, sir, the case is a changed one; a new evil has arisen. That which was originally but a friendly concession from christian to christian, a mere treaty of amity between them, has become, by change of circumstances, a treaty of offence as

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it regards other citizens, not christians, which it was never designed to be. New parties have presented themselves in this state, who claim admission to the privileges secured by that treaty, and who present with that claim the same vouchers of its propriety which have entitled the christians of your state to the enjoyment of offices.

It is then denied that this clause of our constitution, although now operating to the exclusion of citizens not christians, was ever designed to erect a permanent barrier between the latter and those not professing their belief in the christian religion, or that it was designed to have a permanent negative operation. It is contended that its affirmative operation, its operation in throwing open the doors of office to all christians, was the only operation of it which our ancestors had in view when they introduced it; and that its negative operation in excluding others has resulted from the growing up in our state of a new class of citizens, whose existence was not 32 then contemplated, or to say the least of it, was but the result of a compromise in which their rights were for a moment disregarded; and it is further contended that they themselves have furnished principles and doctrines which call for their admission to equal political rights when a proper occasion presented itself for making that call.

Sir, this view of the question is very much strengthened by reference to other clauses of the constitution and of the declaration of rights, in which, after the promulgation of general doctrines in relation to civil rights undeniably belonging to all men, be they Christians or Jews, Greeks or Turks, believers or unbelievers, and even to the worshippers of stocks and stones, we find the framers of these instruments applying them in the same restricted manner—we find them, in these confining them in their operation to christians alone, whilst the works of God and his Gospel, the undeviating practice of our government, and the very language of the framers themselves, do yet require us unhesitatingly to cede the enjoyment of those rights to all men. Let me instance one of those cases: In the 33d article of our declaration of rights is presented the broad and liberal doctrine, “That it is the duty of every man to worship God in such manner as he deems most acceptable to him.” Now, sir, what is the proper, nay necessary application of this doctrine? It surely is not “that the

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christian alone may worship God in the manner he deems acceptable to him.” Such an application would fly in the face of God's own doctrines and commands; in the face of the express language of the article itself, which says—“that all men,” not merely all christians, but “all men may worship in the manner they deem most acceptable to God.” It is, “that the christian may repair to his temple, the Jew to his synagogue, the Moslem to his mosque, nay even the Idolater to his statues, and there worship according to their own lights, leaving 33 the acceptance and degree of merit of their offering with their Creator, to whom it is tendered.” Yet, sir, what is the application which is made of it in the conclusion of the same article? It is the same absurd and unchristian application of which we have spoken, if we were to regard it as an exclusive application. Hear but its language—As such is their duty, says this article, therefore all persons *professing the christian religion* are equally entitled to protection in their *religious liberty*. Is this indeed the doctrine of our government—That none but the christian is entitled to religious liberty? that none but the christian dare lift up his voice to God in our land? Yet further, can it for a moment be believed, that the liberal and intelligent men to whom we owe this constitution and this declaration of rights, could ever have designed to give it that limited and exclusive application? The answer is ‘No’—and every man in this House and this State must echo it back. What! that in this boasted land of civil and religious liberty, the christian alone dares worship God—the very supposition ought to call up a blush upon the face of every Marylander.

How then are we to account for this language? It is to be done in that obvious way in which I have already endeavored to account for the existence of that provision of our constitution prescribing religious tests. After setting forth the general doctrine, they have contented themselves with applying that doctrine to the case before them, leaving it to after ages to enlarge its application as circumstances might demand. Thus they tell us generally: That men may worship God in the manner most acceptable to him. When they came to apply it, they looked around them & found the whole population composed of different christian sects—some of these they found exclusively entitled to the seats of power and trust; others bending under the load of penalties and civil disqualifications, because of the

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peculiar tenets of E 34 the sect to which they adhered. This shall not be, said they,—all christians of whatever denomination they may be, shall have the privilege of worshipping God according to the dictates of their own conscience, but they never intended thereby to declare that none but christians should enjoy this privilege. So also in the case before us, with the same objects before their eyes—they have in some manner abolished all political distinctions between christians, at the same time not designing to deny, by barely affirming that christians are entitled to certain political privileges, that others, not christians, arising within the state, may not also claim and enjoy them.

These very ancestors have in fact driven in the entering wedge, which is forever to sever religious opinions from civil qualifications; and they have placed the mallet in our hands, if I may use a vulgar figure, with which, when occasion demands, we of after days can drive it in still further, even to complete severance. That mallet is to be found in the very doctrine above cited—that which teaches us, “that it is not only the right, but the duty of all men to worship God in the manner deemed most acceptable to him”—and which therefore, teaches most conclusively that other civic qualifications existing, men are never to be excluded from the enjoyment of civil or political rights, because of the performance of what is by our constitution itself pronounced a duty. It tells us that it is not merely the right but the duty of the Jew to worship God after the Mosaic law, if he deem that mode of worship most pleasing to him; and that if even the poor, purblind idolater should conceive that God is present in the stocks and stones which are the objects of his adoration, it is his duty to fall down and worship them.—Each worships according to his lights and convictions, and such worship is accepted of God—Shall then frail man frown upon it?

Sir, has it ever occurred to the noisy and clamorous 35 objectors against the bill before you, that it is but designed to remove disqualifications imposed by law upon many citizens of your state, for doing that which your constitution itself pronounced to be their duty, and which it therefore requires them to do? That it is but to take away the charge which may at present, with great justice, be advanced against your constitution, that it blows hot and cold with one breath? That it points out duties to men, and then imposes penalties for

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performing those duties? Thus do I sustain the declaration: that in making the change proposed by this bill, we are not disregarding the respected opinions of the framers of our constitution. Thus do I prove that we are but called this day to do that, which, could the graves yield their dead, they themselves would most strenuously urge upon us.

But Sir, in order to render this constitutional objection, as I have chosen to term it, an available one, there is another small supposition to be made, which however happens to be too gross to be swallowed.—The most inveterate and unyielding adherents of that constitution dare not pretend to claim for it, that which some Englishmen who seem to have been disposed to hug their chains, at the termination of the 17th century claimed for their King, a divine right, not in any degree to be impaired or restricted. None, I think will be more disposed to vindicate the tyranny of the constitution than regal tyranny. It is necessary therefore to get rid of this proposition for amendment, by denying that this test, although admitted in the abstract to be unjust and improper, does yet in fact, work any wrong or inconvenience, or at least any so considerable as to justify the proposed repeal. Now if this test does not in fact, produce any individual injury or oppression deserving of consideration, the lenity of its operation must be owing to one of two supposable causes. Either the disqualification wrought by this test must be inconsiderable and unimportant 36 in its nature and effects, or it must be so because of the small number of citizens upon whom it actually operates.

It has indeed been sometimes said: Why! these citizens have every thing which can render life estimable—they are permitted to live, to worship God after their own manner—they may pursue at their pleasure any of the various avocations in life—they may sit under their own fig tree and eat of their own vine and none to make them afraid—what more do they desire? Why, merely that they may not be your mere tenants at will in the enjoyment of these blessings, that their voice may at least be heard in common with that of their fellow-citizens in that government which gives and takes them away. Admit that they enjoy all these, what have they more than many subjects of the most despotic monarch on earth. In all countries there are some few green spots upon which the withering eye of

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the despot has never rested, and where all those blessings might be enjoyed, which fall to the lot of unbelievers amongst us. But both here and there and wherever they have no active participation in the government, their privileges are rather regarded as permissions than rights: but do gentlemen who talk thus, reflect upon the nature and extent of the disqualification? Is it inconsiderable to a man of feeling to have the mark of Cain set upon him? Is it inconsiderable to such man of like fashion with ourselves, glowing with the consciousness that he possesses every mental and moral qualification to entitle him to the esteem and confidence of his fellow-citizens, to be told that all these to the contrary; so unworthy is he of them, that his fellow-citizens shall not even be permitted to bestow them upon them? Is it nothing to such man to be told, "You may indeed enjoy civil liberty—you may exist here—you may play the brute here—you may eat, drink and sleep here; these are all passive rights which we will permit you to enjoy for the same reason 37 that Uncle Toby restored liberty to the fly, because there is room enough for you without incommoding us. But we wish you distinctly to understand you are the creatures of our will; you exist here by our permission; if you find aught cheering and inspiring in the influence and operation of our government, you owe it all to our mere good will and pleasure; and we who give, can at any time take away. As for you, you are politically dead; we know you but as one of the passive and unresisting, because impotent governed." Is it nothing to such man to know that the same ignominious mark which he himself bears, he must impart to his innocent, un-offending offspring—to know, when he sees them springing up around him with every power to instruct, and with every quality to adorn, glowing with that honorable and laudable ambition by which all men are or ought to be actuated, and which would impel them to climb the steep of virtuous fame, that notwithstanding all this they will be checked at its very by the rude arm of our constitution, which tells them that they must not even strive to ascend? It has been said that 'tis hard to climb ambition's steep, but harder yet the fate of him who is told he must not dare to climb it; this part or its operation is the unkindest cut of all.

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Sir, when men talk about the inconsiderable nature of the privileges denied by this test, they forget the obvious distinction between the actual exercise of a right and the power of exercising it at pleasure.—The condition of the freeman and the slave is in many respects alike—many of the former earn their daily subsistence by the same unsparing toil which is allotted to the latter; yet the one would rejoice over his brown bread, whilst the other would sigh even over dainties. It is opinion, mere opinion which alone gives enjoyment to and takes away contentment from every situation in life; those are happy who believe themselves to be so; those are free who believe themselves 38 to be so. In the actual enjoyment of offices there is to many men not much to allure or to gratify; the trust is so often betrayed and the honor so often tarnished that in these days there are found some who willingly exclude themselves from the enjoyment of them. Yet how vast the difference between a voluntary and an involuntary exclusion?—The denial of every enjoyment does but enhance it in the estimation of those denied. It is of this that those excluded by your constitution have reason to complain:—not that they do not enjoy offices of profit or trust, but that they are deemed wholly unworthy of enjoying them. If the disqualification be not inconsiderable in its nature, neither is it so because of the small number of those upon whom it is to operate. It is a new doctrine in political or individual morality which it was reserved to this age to bring forth—that an injury is not to be redressed until it swells to a certain size—that the groans of those who are affected by it are to be disregarded until they come in deafening clamor upon the ear. Sir, if this be indeed a doctrine of modern times, it would put us upon the same kind of inquiry to which one of antiquity was driven, when told that age gave excellence to writings as to wine. We would have to inquire, How widely diffused must the injury be?—How many the persons upon whom it operates? How many sighs, and tears, and groans, are necessary to give weight to the complaint, and to entitle it to the consideration of the injuring individual or government? Where are the scales in which we are to weigh it? There is but one case in which an objection of this kind is of any avail, and that case bears no resemblance to this. It is often said, and properly said too, in reply to objections urged against general laws in their operation, productive of particular inconveniences, “that such objections furnish no sufficient reason for their

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repeal, inasmuch as it is wholly impossible for human ingenuity to devise any 39 general rules adapted to all cases, which will not be found to result in injury in some of them, and as this is an imperfection necessarily incident to the generality of every rule, until the particular inconveniences become so weighty as wholly to bear down the general resulting advantages.” The case before us however is not a case in which such reply can be made.—If this objection is to operate as a preliminary objection, then it must admit every thing which, we allege, will be rendered manifest by entering into an examination of the merits of the main question; it must admit that this test, when regarded in the abstract, is unjust and oppressive. What then is the general good which is to result from the continuance of it and which is to counterbalance the particular injuries which it produces? We are answered “it consists in checking that spirit of innovation upon the constitution which is too prevalent at this day, by preserving it inviolate in all its parts.” The folly of the notion, that its sanctity is increased by the preservation of exceptionable parts, has already been commented on and seems to be too manifest to require further exposition; is the good and pure rendered more so by mingling with the corrupt and impure? Will the foot of profanity approach with more awe and reverence this holy of holies, if it be defiled by things unholy?

Sir, it is the very continuance of these exceptionable parts which renders the people of your state in many sections of it so clamorous against your present constitution. They judge, as mankind in general judge, of the whole instrument from some of these its prominent parts. The good is passed by unnoticed and the evil is held up to public view as a fair specimen of the whole. If ye would check the spirit of innovation ye must do it by taking away such clauses as the present which do but whet its appetite and invite its attack;—And those who would tell that it is proper to disregard particular injuries 40 because the complaint of them comes from persons too inconsiderable or too few in numbers to surmount the general clamor, would do well to remember that the very Lord of the universe sees not a sparrow fall to the ground without noting it. Such is the example which human governments should set before their eyes. They should not see the sparrow,

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the most inconsiderable object in the community, supplicating their assistance and relief without turning the ear to hear and stretching forth the hand to redress.

There is yet another point of view in which this objection ought to be placed, and which gives yet greater magnitude to the injurious operation of this test. It is perhaps less to be reprobated because of its present action than for its repelling, and forbidding aspect. It may indeed be properly regarded as a flaming sword, placed at the end of our constitution, turning on all sides, which forbids the approach to our shores of many enterprising, useful and wealthy men. Bigotry itself will not deny that there are many such to be found even amongst those who would not subscribe a declaration of belief in the christian religion. Many such have been found, many such are known even at this day amongst that despised and prosecuted people, the children of Abraham.—To all such this test says “Approach not this people; dwell not amongst them—they draw near unto political liberty with their mouths, but their hearts are far from it—to their laws ye will be unknown except as the mere creatures of obedience.”

To me, Mr. Speaker, there seems to be nothing in these preliminary objections which ought to shut us out from a decision of the merits of this bill. Yet in truth they are the most forcible which can be urged against the proposed repeal, and they caused us to carry longer in the threshold than we shall perhaps in the main edifice. This subject is one which has but lately engaged my attention; yet that brief attention has sufficed to convince me so far as my knowledge of the long continued controversy growing out of it extends, that the merits of this or of any preceding bill designed to be more particular in its operation, have not as yet been fully disclosed. I would not arrogate to myself the power of discovering arguments and persuasions hid from the ken of other men; but the views which I would present, are offered as the fruits of an unwearied industry, which has stooped to gather what the hasty tread of other men has passed by.

It is well known to this House, that this subject has been agitated here and in the state for some years past; that in some instances the assent of the delegates of Maryland

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has been asked to what were properly termed “Jew Bills,” in others to bills of a general nature, proposing the entire taking away of the test. To me it does seem that there are no arguments justifying a partial, which do not also demand a total repeal of it; yet both upon those bills which were properly termed “*Jew Bills*,” and upon such as the present, which we may term “Test Bills,” the attention of the public has been wholly turned away from the general propriety of religious tests, to the particular operation of the one now under our consideration, upon certain of our citizens.—Our attention has been primarily directed to the history and character of the Jews as a people, by the partisans of both sides, for the purpose of evincing the propriety or impropriety of the proposed repeal.

On the one hand the origin of the Jewish nation has been pointed out to us—we are told, “that they were originally the peculiar objects of God's care and kindness; that they were preserved by him as a burning light amongst the nations; that whilst all other people lay buried in the grossest spiritual ignorance and superstition, they were the depositaries of his gospel until he should come, who would restore all things.” True it is, say such observers F 42 that they have been abandoned for a season; that the brightness of their temporal and spiritual glory has long been abandoned; that their temple has indeed been prostrated; that their holy city has indeed become the abode of the howling beast of the desert. Yet their glory is but clouded, and the cloud will soon pass away; the face that is now averted will soon be turned upon them clothed with all its accustomed kindness, and we who are now witnessing the daily developments of returning mercy towards this long lost people should minister unto the designs of Providence, by taking them by the hand as political brethren and clothing them with the same civil rights which we ourselves enjoy.

On the other hand, from a like mistaken notion, “that human governments administered by frail and short sighted mortals should conform in their operations to the judgments of an all-seeing God,” whose aim and design in inflicting them, we ourselves cannot comprehend, but can only reverence. The history of the same people has been referred to by the opponents of this and of all preceding bills of an analogous character, to justify their exclusion from political power. Our attention has sometimes been directed to their

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conduct as a nation and as individuals, even whilst they dwelt under the shadow of divine mercy. All their murmurings, their rebellions, their long-continued and often repeated acts of disobedience, whilst they were yet the indulged children of his care, have all been conjured up in judgment against their claim of political privileges by many who are every day guilty of like disobedience and like rebellion against the Author of their being. We are pointed to their present nationless situation, if I may so speak—we are shewn them a by-word amongst all nations; and, sir, there are some amongst us of rather the weaker vessels of the christian church, it must be confessed, who, unable to evince any of that mild and forgiving spirit which would induce them to ask blessings even upon the head of an enemy, or to illustrate their adherence to the christian doctrines in any other way: there are some such who would fain have us to visit upon the heads of the Jews of this day, after a lapse of eighteen centuries, the acts of their progenitors, whom the Saviour forgave, although the very actors. Yes, sir, we who are every day crucifying him anew by our acts, as much as though we had been at the foot of the cross, we charge them with being the descendants of his crucifiers.

Sir, discussions of this kind have no connexion with this question.— When we can attain to the attributes of Deity, fathom all his purposes, and interpret all his acts, then perhaps we may set up his decrees as patterns for our imitation. But as well might we, because by those decrees whole countries have been devastated, whole nations slaughtered and the very infant slain at the breast; as well might we, fancying ourselves clothed with the power, mount the white horse of destruction, and go forth alike indiscriminately to slay and to devastate, as plead his unsearchable decrees in relation to this people as a reason why we also should deal hardly with them. The course which the arguments on this bill have taken forcibly illustrates the truth of the observation which I have already made: that mankind with general principles before their eyes to direct them, do but too often reason and act from particular cases. Such reasoning is often proper and conclusive, but it does not cover the whole question. In this instance, however, the attention of the public has been directed to the Jews as constituting a numerous and respectable people, excluded

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by the operation of this test; yet it has been directed in an improper manner. Their history has been referred to—but for what? Sir, if this were a question of sympathy, there is, I should suppose, enough in their history to elicit it from all present. They could be pointed out to you as scouted from land to land, as driven from home to home, by a relentless spirit of persecution which seemed but to whet its appetite by the gratification of it. In my native wilds, the hunter who is accustomed to look upon the objects of his pursuit as his fair and legitimate prey, will sometimes pause and gaze with compassion upon the agonies of the stricken deer, and will sometimes drop the murderous weapon. But, sir, Israel has been the stricken deer, upon whom her hunters have never had compassion. Still this is ground into which, however willing, I must not enter. If we do travel from the general principle into particular cases coming within its operation, all that we can enquire is, whether the particular cases are such as ought to come within its operation, and such as call for it.—To illustrate the general principle upon which this and other bills more special in their provisions have rested, is, that civil governments have no immediate connection with any *particular* religious opinions; and that all religious tests bringing about such a connection, ought to be repealed. For the purpose of shewing how wholly improper it is to make civil governments the mere governments of a particular religious sect, it may be proper to refer to its particular operations—it may be proper to point our attention to the Jews, as to a highly respectable class of citizens, with every thing that could qualify them for the administration of human government, excluded because of opinions which do not in the least derogate from those qualifications; but not in the manner in which it has been done—what their ancestors were, is to us a matter utterly unimportant; what the Jews of this day are, it is alone important for us to know.

The operation of the act before us, if passed, will be to throw open the doors of office to Jews amongst others. Therefore, the question maybe asked, Are they unworthy of this high political right? Are they destitute of those qualifications which would enable them to discharge the duties incident to the offices of this state? Or admitting these questions to be decided in the negative, is there any danger to be apprehended from referring

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these questions to the people or their officers for their determination? It has sometimes been said, that there is that in the character, the customs, the religious ceremonies, the recollections and the anticipations of the Jews, which ought to disqualify them for the enjoyment of political rights in any country. These, we are told, constitute a barrier of separation which has severed from their origin as a nation, and which will during their continuance as such, forever sever them from those amongst whom they dwell. Since the moment of their dispersion by the hand of Providence, where'er they roam, where'er they be, they drag at each remove a lengthening chain which binds them to the home whence they have been driven. They cherish, say such objectors, the delightful recollection that they were once God's chosen people, seated above all nations in point of power and privilege; and they dwell with extacy upon the hope of an approaching day when they will resume the same proud seat. These reflections and imaginations, it is alleged, are constantly indulged; and they beget and nourish in them throughout the whole earth a degree of disregard and contempt for the laws, institutions, customs & welfare of every people. "Hence," some have unkindly said, "they have been found in all ages since their dispersion, to be the leaches of the world, draining its blood at every pore, preying upon its necessities and acting as the pandars to its vices."

Sir, what does the history of this day tell you in relation to this people? Does it confirm this statement? Does it shew them to you all selfish, all interested, all regardless of the public welfare, all dead to the throb of patriotism, all avaricious, all 46 usurers and money changers? Does it not rather show you many amongst them, in those nations of Europe, and in those states of the union, where they are admitted to an equal participation in civil and political rights, numbered amongst the useful, intelligent, enterprising and patriotic citizens of the community to which they belong? There are even in this house, in the hands of an honorable member present, abundant evidences of the truth of this assertion, without travelling beyond it or beyond the instances furnished us in our own country. These shew you the highest marks of regard and esteem lavished upon them even by the hands of christians—these shew you several striking manifestations of public respect, tendered by

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the hands of your own citizens, to those very men who are this day by your constitution pronounced unworthy of holding the meanest office in your state. They bid proud defiance to its declarations, and throw the lie direct in its teeth.

Were there no other act of the sons of Abraham on record, than that which the clamor of applause has just borne to our ears, it were enough to redeem from the stigmas of our constitution and to east the mantle of political privilege over a whole people.—Is it not yet ringing in our ears that one of these alleged selfish, interested, usurious men, has just expended a moderate fortune in redeeming from the process of christian laws, and from the hands of christian officers, a christian temple, not that he might make it the receipt of custom, the seat of money changers, or an edifice of commerce, but that he, the Jew, whom some christians would term “the infidel dog,” and whom such laws as ours would oppress, might enjoy the unspeakable pleasure of restoring it to the christian sect, from whose hands it had been torn? And yet this man, in the estimation of this constitution, would be so debased and groveling that he dare not lift up his eyes even to the office of a constable of a hundred. If ten men, righteous 47 men, would have redeemed Sodom and Gomorrah, I repeat it, that one such act should work political redemption for a whole people.

Let us, however, for a moment go hand in hand with this objection to its utmost limit; let us concede all that it demands, and we find upon closer enquiry, that instead of operating as an objection, it furnishes the strongest possible reason for breaking down the barriers which our own laws have erected to separate us from this people. It is this wall of separation which we ourselves have built up, which more than aught else continues to sever us, although citizens of one commonwealth. Those who urge this objection, if they look more closely into their conduct, will find that they are imitating the great father of evil, who first tempts to sin, then damns for sinning. They will find that they are setting up as an excuse for the denial of rights due to every orderly citizen, feelings and principles which, even if their existence were admitted, must be acknowledged to be a great degree superinduced by that very denial. Sir, it is as though your laws had ordered an individual

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to be excluded from and to be cast into the company of lepers; and then, when by your act he had taken the infection and had become leprous, you would plead his disease brought about by your acts in justification of your continued determination to exclude him. If these people are indeed infected with a political leprosy, which ought to shut them out from political communication with you, to you and to your laws do they owe it. Take away but the infection, remove the barriers which have heretofore shut them out from a pure air and a free walk, and ye will restore them to a state of health, contentment and respectability.

Look back to the transactions of the last fourteen or fifteen centuries; nay do but direct your attention to the events of this century, refined and purified, as it is said to be, by "*the mild lights of philosophy and 48 religion,*" and do they not show you some other causes for that repelling spirit, that shrinking into self, that cold abstraction from other men which is pleaded as manifesting an utter indifference as it regards the prosperity of other men or other nations, and that they ever regard themselves as homeless and will never amalgamate with the people amongst whom they dwell? Do we forget the events of the crusading aera, in which the Turk and the Jew were alike hunted down by the fury of a christian populace? Do we not remember that there is scarcely a country in Europe whence they have not been repeatedly banished? Without travelling into the events furnished by the histories of other nations, have we forgotten those glaring in the chronicles of England, our mother country? Has that intolerant age been forgotten, when in intendment of the English law the goods and the very life of a Jew were at the free disposal of the lord in whose manor he was found? when English kings amused themselves with the infliction of novel penalties and tortures, such as that of drawing their teeth in order to the acquisition of their wealth? when to them every dispensation of Providence, in the form of disease or plague, was imputed and secret, unwitnessed mockeries of, and blasphemies against the christian religion and its author? Nor are such acts mere matters of history—Have not our own days shewn us some such even in enlightened and liberalized Germany? And although they cannot indeed complain of any

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personal injuries received at our hands, they owe it rather to the temper of the people of this state, than to the spirit of our laws.

The laws of your state, Mr. Speaker, have a natural tendency, by deadening all honorable ambition, by barring the doors of offices and an honorable profession against them, to extinguish that lofty, independent spirit with which a consciousness of self-importance and a knowledge that our voice is heard 49 in the government under which we live, never fail to inspire us. Your laws, by excluding them from the enjoyment of purely political rights, which at first blush, seem to belong to every man as a member of society, will not permit them however high their regard might otherwise be for your state and its citizens, and however strong their desire to advance its interests, to cherish such regards and desires or to consider them as otherwise than politically dead amongst you. Your laws make them strangers in their own land, and then complain that they are such. Sir— The flesh will quiver where the pincers tear, The blood will follow where the knife is driven. If your acts and your laws have had a tendency to originate and nourish a selfish, unsocial and unfeeling spirit, could you have reason to complain, even if it were admitted that in some instances they have been followed by the result which they were calculated to produce? If they have been repulsive, it is but reaction upon a like repelling spirit, first manifested on your part. I have deemed it proper to answer this objection thus fully, inasmuch as Jewish history, Jewish customs, and every thing connected with them which could divert the attention of the public from the main question, have been summoned up for that purpose. They have been made the masking battery, behind which the enemies of this ball would conceal its merits from the eye of vulgar prejudice. I have admitted it for the moment to be a substantial objection, in order that it might be fairly met and shewn to be founded on false premises.

But if these premises were correct, still the objection which they sustain is one which ought either to be urged, and which ought to prevail to the denial of every right of citizenship, or which ought not in any degree to prevail. If they are indeed the beings whom this objection supposes them to be, then perhaps it might be proper to cede to them, whilst G 50 within

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our territory, the bare rights of an alien, *protection of person and property*. But, sir, we give them other rights of citizenship, equally dear and equally important with this—and why not yield this also? We tax them, we require them to perform military duties, we give them the right of voting—and can there be any assignable reason worthy of consideration, why the privilege of being voted for or appointed to offices, should not accompany these? Is it not a monstrous anomaly to sever the right of electing from the right of being elected to office, solely because of religious opinions? Surely if there be danger in the latter, there is little less in the first. There is another part of this objection which only serves more strikingly to illustrate its frivolous nature—This their unextinguishable national character, built up by peculiar laws, customs and observances, which they have preserved even to this day, will (it is urged upon us) ever prevent them from desiring or accepting offices of honor or profit in our state—and why therefore repeal this part of our constitution for the purpose of tendering privileges to those who will never avail themselves of them?—Does it therefore follow that we are bound to cede a right or to acknowledge its existence, are exonerated from that obligation or may even deny that it exists, because those for whose benefit that right arises, may not deem it proper to assert or exercise it? Sir, when we witness a fellow-creature resolutely bent upon self-destruction, upon throwing away that life which God has given him a right to enjoy, as well might we anticipate the act by taking away his life ourselves, and then justify the act by saying, “that the murdered individual had indeed a right to the enjoyment of his life, but it was a right which he was determined to cast away, and therefore we were justified in taking it from him.” If this were one of those rights which arise only upon demand then indeed there would be some semblance of reason in withholding it until demand made.

51

The attempts to give a false coloring to this question, have not been made in a corner; I hold in my hand a series of remarks upon the bill before you, which some kind gentleman, who is too modest to reveal his name, has addressed to the members of this house. This writer, if we are to judge from the tenor of his remarks, seems very much disposed to

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regard us as lost or wandering sheep, whom he as the shepherd would fain bring back to the fold. But why this gentleman should have imagined himself called upon by duty, to place himself at our head, to march before us as a second Moses, to direct us on our way, and to illumine our path, any but the writer himself would find it difficult to conceive.—Perhaps he may have remembered the memorable doctrine, “that the foolish things of this world are often chosen to confound the wise;” and may thence have been inspired to the present essay in the hope that these, his erude & weak observations, might have a like influence in confounding and putting to rout all those enlarged and liberal political doctrines, which are or ought to be, embalmed in the constitution of every free people. When these remarks were placed in my hands by a gentleman of this house, I did not stop to enquire for the credentials which gave to the author so bold and dictatorial a tone; but immediately addressed myself with earnestness to them in the expectation of finding some objections to this bill, where my short-sighted vision, after the most minute inquiry, had failed to discover any.—Alas! it proved like most other human expectations; shadows that dance before us to invite our grasp, but always elude our embraces. After having toiled through them without meeting that which was the object of my pursuit, a substantial or even plausible reason why this bill should not pass—I could not but recal to my recollection the beautiful illustration of the vanity of pursuit after pleasure, furnished us by a modern poet— 52 Where every touch that woos its stay, Has brushed its brightest hues away— and apply it to the result of my labors.—Coming to our hands with a pompous note of preparation, a-bounding with figures and *sesquipedalian* words, it was natural for us to expect something excellent and forcible in the way of argument or persuasion, clothed in such gorgeous apparel—but alas! we soon found that every touch which wooed their stay, and would have submitted them to a closer examination, did but brush their brightest hues away. All that I have been able to learn from them is, that there are a variety of religions in this world, and that some of them observe certain ceremonies and hold certain doctrines, and others, other ceremonies and doctrines;—and all this might serve very well to show that in their religious worship, until these essential differences are removed, these religious sects can never mingle or amalgamate. But

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what possible connection this can have with the question before us, the teacher may have been able to discover, but I as one of the taught, cannot readily perceive. This writer seems disposed to argue this question as if civil governments were nothing more than religious dynasties, and as if the question now were, “whether we should place christianity or judaism on the throne?” For the present, therefore, we shall pass by *his remarks*, having already bestowed upon them much more attention than they could claim from intrinsic merit, reserving to ourselves the right of hereafter showing that by a monstrous obliquity of judgment, this writer has actually imputed to the non-establishment of the christian religion, by the civil powers, many consequences which can easily be shewn to have flown solely from the civil establishment of it.

I would now approach the main question which this bill presents, disencumbered of all these preliminary or particular objections. The material 53 enactment of this bill is—“*That no religious test shall ever be required as a qualification to any office or place of public trust under the state of Maryland.*” That no such test ought to be required for such purpose, is the proposition which I am now to sustain. There are, sir, two modes of viewing this question: the one of which looks exclusively to the arguments adduced in support of the propriety of religious tests to be administered in order to the enjoyment of civil offices; whilst the other would take into consideration and weigh the arguments and persuasions on either side. It is not absolutely necessary for the friends of this bill to travel into the arguments which lie around them, demonstrating the impropriety of connecting particular religious opinions with the right of holding offices. They might admit all that the most strenuous advocates for the continuance of this test can allege—they might admit that none but christians ought to fill the seats of power and office in this state; and yet, with all these admissions, they could just as strenuously contend for the utter and perpetual abolition of religious tests, (as these declarations are termed,) as being in no degree calculated to produce the desired effect or to test the existence of the christian character. Yet for the sake of the weaker consciences, it may be proper to present this question

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under both aspects; and I would claim the indulgence of the house, whilst I endeavor to present this double view.

If there be any propriety in this or any other religious test, it must be because it evinces the existence of feelings and principles, which do peculiarly fit men for the performance of civil and social duties, or because they are essentially necessary to the performance of those duties in the country or state in which the religion established by the test prevails. Let it be admitted then in relation to the christian religion which this test and such tests as may be expected to exist in our state would render essentially necessary 54 to qualify for office, that it presents us more distinct views of our public and private, of our relative and individual duties, of our duties as a creature, of our duties as a member of society. Let it be admitted that it furnishes more powerful incentives to the performance of such duties than are any where to be found in the cold doctrines of morality or the dark or glimmering views presented by other religions.—Let it be admitted that what in the latter in relation to the consequences of human actions is seen but “darkly through a glass,” is in the former presented under a noon-day blaze. Let it be admitted that it shews us distinctly in the perspective, a state of future rewards and punishments assigned for the performance of deeds done in the body, and at the same time the eye of an all-seeing being upon us, noting and registering our deeds in order to our future disposition. Let it be admitted that it places human governments upon more elevated ground, by teaching us that they proceed from God, and that those who are in authority over us are but his trustees and the depositaries of his power. Still after making all these admissions I object to the manner of testing, I object to the nature of the test proposed to be taken away and of all religious tests, as being in fact, no tests at all, and as taking away the question from the proper tribunal.

All religious tests impose a penalty upon those not professing a belief of the doctrines of the religion or religious denomination, to which it is designed to confine the enjoyment of offices. The test incorporated with your constitution imposes a penalty on all persons not declaring or willing to declare their belief in the christian religion. Let not gentlemen start

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at the mention of the word ‘ *Penalty.* ’ A denial of rights otherwise due to an individual is as much a penalty as the positive infliction of punishments by way of fine, imprisonment or corporal chastisement. In fact all of these are nothing more than denials of 55 our right to personal immunity and the exclusive enjoyment of our personal property. It will be remembered that this and other religious tests never present themselves for operation until the office or place of profit or trust has been actually bestowed. It is not until our fellow-citizens or those to whom they have confided the power of appointing to offices have absolutely elected or appointed us to office—that this and other religious tests intervene, place themselves between us and the official chair, present to us on the one hand all the allurements of official dignity and profit, and on the other all the mortification and humiliation of a stripped and degraded officer; and call upon us to chuse or to refuse by putting to us the question of torture, which we ourselves are required to answer, and by which compulsory answer we are either to entitle ourselves to the enjoyment of all the former, or subject ourselves to all the latter. Do not such tests appear strangely inconsistent with the benignant doctrines of our constitution, and with the mild practices of our law? Not only do they tell us, but reason also tells us that there is something peculiarly harsh in requiring individuals to furnish testimony against themselves; a harshness which should discountenance the right to require it in civil cases, and which should wholly banish it from all cases of penalty or punishment, such as the present. Let are instance one or two cases which may serve to render more manifest the odiousness of such a procedure.—Let us suppose that during our present session, a bill had been offered to our consideration proposing to make any act whatsoever criminal; that such bill after having specified the penalty or punishment to be imposed for the commission of the offence created by the act, should go yet further, and provide that the several county courts and magistrates within our state should have power to compel all persons presented for the offence, to answer on oath, whether they had or had not committed 56 the offence charged upon them. Is there a man amongst us whose indignation would not be kindled to a flame by the bare offer of such a bill in this house?

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Still the case is not strong enough to correspond to the one before us. Let us suppose yet further, that the bill thus offered did not only propose to invest the courts and magistrates with the power of examining on oath, those presented for any offence against the act, as to their innocence or guilt, but also to authorise them on mere surmises, and without any presentment before them, or any cause for suspicion, to cause any individual whatsoever, to be arrested and brought before them, and compel him to answer, whether he had committed any offences against that act. Shocking as such an act would seem, it involves in it no more cruelty, no more disregard of human feelings, no more contempt of constitutional right, than this very test. It proposes to exclude all persons not believing in the christian religion from the enjoyment of all offices of profit or trust within the state of Maryland; and how does it ascertain the existence of this belief? Why, by pressing into its service the conscience of the elected or appointed officer himself—by compelling him to render an answer which is either to exempt him from, or to subject him to this heavy penalty; and all this is to be done without the least foundation for the supposition that he does not believe in the christian religion. Sir, when we listen to the details of the barbarities practised in Spanish inquisitions, we are sometimes ready to leap for joy, because we dwell in a country where such acts are unpractised and unpermitted. Yet what do they more than we? They do but suspect without cause, and arrest and bring before them all on whom their causeless suspicion lights. They do but place the arrested individual on the rack, and amidst the agonies of his torture attempt to wrest from him confessions of his guilt. 57 Does not your test thus operate? Does it not causelessly suspect all of disbelief? Does it not place all the officers of your state on a moral rack as painful and as torturing to the generous mind as the former? Does it not place interest on the one hand and truth on the other, and hold forth every inducement to disregard the latter and to keep an eye single to the former.

Thus its last tendency, Mr. Speaker, furnishes another reason equally strong, why the individual himself should not be appealed to for proof of his belief in the christian religion, and why religious tests are improper. I have said, that for the individual's sake and from

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a regard to his feelings, this and all other tests should be forever excluded. I say yet further, that it is equally due to a regard for the public interests—All human laws do, or ought properly to appreciate human nature. We are taught to pray, “ *lead us not into temptation,* ” and human laws should listen to our prayer, and present none. From a regard to this weakness, the laws of a civilized people never appeal to an accused individual for proofs of his criminality. They will not permit him to testify on his own behalf, or to purge himself of the erime with which he is charged by his own declarations. This wise precept is, however, lost sight of in this test; it appeals to the individual himself—it presents him honor or profit on the one hand, disgrace and degradation on the other—it makes his acquittal or conviction rest upon his own tongue—it casts stumbling-blocks in the way of his honesty and suborns him to false declarations.—Not only does it make his declarations tendered under such seducing circumstances, evidence; but it also makes them *conclusive* evidence of his belief in the christian religion. No proof, however high or however strong, can be received to rebut the declaration of belief, or to exclude him from office. Let him but make the required declaration, and although the H 58 evidence of his disbelief were so strong as to put it beyond even the possibility of a doubt, although he had been through life a contemner of the christian gospel, both by his language and by his acts—aye, sir, although whilst the pen was in his hand with which he was to subscribe the declaration of belief, he would tell you, and this house, and the world, that he believed not a jot or tittle of that Gospel; you could not therefore, put him back from his seat of office; you could not disbelieve his declaration; your constitution would compel you to pronounce him a christian, and as such to place him in the official chair. What then is this declaration required by our constitution? What are all declarations enjoined by religious tests, but *the gnat* which the unprincipled and abandoned infidel readily swallows, and the camel, at which the honest man only, the man who may indeed err, but who errs sincerely, would choak? What but the stumbling-block over which virtuous citizens fall, whilst scoundrels leap over it with ease into office.

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But, sir, if the manner of testing were admitted to be proper, permit me yet further to ask, what is the nature of this and all other religious tests, and what kind of belief does the administration of them evince? If these tests seek for any thing; if they are of any avail, they must seek to discover the existence of the heart-felt belief; not that belief which dwells upon the tongue, but that deep and abiding conviction of the divine origin of the christian system, of the purity and excellence of its doctrines, and of the force of its commands and persuasions, which might be expected to influence the believer in his life and actions. This is the only kind of belief which could in any wise effect the character of his official acts, or which could better qualify him for the discharge of his official duties. Now, sir, what species of belief is sufficient to fulfil to the utmost the requisitions of your constitution, or of any religious test elsewhere to be found? I answer, the belief which the cold-hearted moralist may profess, the belief which the very infidel may profess. The administration of your test and of all other religious tests, does but evince the existence of a cold, barren and speculative belief—a belief which bears no fruit—the belief of him who heareth and goeth his way and doeth it not—the belief of him who says, “go thy way for the present, I will hear thee at a more convenient season”—the belief of him of old, who exclaimed, “almost thou persuadest me to be a christian.” If I am rightly informed, it has been said in some counties of your state, “repeal but this clause of your constitution, and there is nothing to exclude the devil himself from admission to your offices.” If this test were all that excluded, there is nothing even now, I say it with awe, to prevent the devils and the damned in hell from taking a seat in this house. We are told, “that the devils themselves believe and tremble;” and though it were a belief extorted by the agony and anguish of the moment, still it is a belief, and as such would satisfy the requisitions of your constitution.

Sir, these cold and unmeaning declarations do but take away the question from the proper tribunal.—Say what you will of their efficacy, say what you will of their necessity, in order to the sustention of any religion, you will find that all efficacy, all healing and preserving power resides exclusively in the character of the people of your state. So long as they continue a christian people, admitting even for a moment that the christian religion had

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aught to fear from human efforts, there is no reason to fear that those efforts will ever be directed against it—There will be no danger in leaving it with them or with those who are elected by and responsible to them, to determine whether your religion has any thing to fear from any candidate for their favor.—Their selection will furnish some better evidence of a belief in the christian religion, than is to be found in these mealy-mouthed declarations. They can better tell you than these, who are worthy and who unworthy of office. They witness the individual in his incomings and his outcomings—they see him at home and abroad—his conduct in the discharge of public and private duties is daily before their eyes—if he be the christian—if he be the estimable and deserving citizen, they see it stamped in his acts; you learn it from his professions. They may indeed be sometimes deceived. Unworthy men may sometimes obtrude themselves into honorable and highly responsible offices—but can gentlemen devise any mode which will utterly exclude such individuals from office? or do they see any thing in tests—such as these, at all calculated to repel them? Cast about you on all sides and you will find no better test of qualification for office than election by the people or those to whom the people have confided that power. Yes, Sir, we may heap Pelion upon Ossa, test upon test, and we will find at last, that the only test which is effectual is the opinion of the people. It will be found to draw all to it—if it be wholesome and pure, it will not fail to fill the offices of your state with men of respectability and virtue—if it be foul and impure, all your laws and tests will never operate as correctives—ye must go to the source of it, ye must drive into the heart and there work a radical change. God help the man and the people who fear themselves, who dare not trust themselves! The history and experience of all past ages laughs at this test and tells you that when the people of any government are pure, their laws and customs are so; but when they become impure, they taint with their impurity all that is connected with them or operates upon them.

Permit me now to retract the admission which I have made of the propriety of connecting religious opinions of any particular cast with the right to enjoy civil offices, merely for the purpose of shewing that these tests both from their nature and their manner of discovery,

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are in no wise calculated to ascertain the existence of such religious character. I would now take the other view of the question, which seems to me most conclusively to evidence their utter inconsistency with the nature and intent of civil government, with the character and mode of operation of the religion they purport to establish, and their most pernicious influence upon the latter in stripping of its unearthly sanctity. The disqualification which is imposed by this test for the non-profession of the christian religion, is of a double character—It operates as such not only upon the individual elected or appointed to office, whom it may exclude, but also upon the people by whom or by whose agents he has been thus elected or appointed. As has already been observed, this test never intervenes, it never has any operation until the individual has actually been elected or appointed to office.—The effect of this and of all other religious tests is, therefore, to disfranchise him whom the people have clothed with a franchise, to declare him unworthy whom the people by themselves or their agents, have pronounced worthy of office; to refuse to entrust the interests of the people to the keeping of him whom they or their agents have selected as a competent guardian. It seems truly surprising, that the people of this state have not taken this view of the question, or if they have taken it, that they have not, by acclamation, demanded the abolition of this test. Take away this test, and whom have they to fear but themselves? In whose hands are they but their own? Sir, I will venture to assert, without the fear of contradiction, that this question has not been understood by the people of this state. Chimeras of all kinds have been conjured up to alarm them. In some parts of your state they have even imagined that the effect of 62 this bill will be, not merely to make all men eligible to office, without distinction, because of religious opinions, but absolutely to elect them. They seem to have expected, that on the instant of its passage, this house would be swarming with Jews, Turks and infidel delegates of every description.

I lay it down as a general rule, applicable to all restrictions upon the right of choice of officers residing in the people or their agents in a republican government—“ *that all such restrictions are odious; that they ought to be sparingly imposed; and when imposed, that they ought to be strictly construed.* ” In advancing this doctrine, I am enabled by the

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occurrences of the last week, to entrench myself behind strong authority. The purport of the opinion of the late distinguished Mr. Pinkney, read in this house a few days since, in order to the application of it to another case, must yet be fresh in the memory of every member of this house. That opinion I would not indeed adopt to its full extent, and I must admit, that in the application of general doctrines to the case in which that opinion was sought and given, there is a little of that philippizing spirit manifested, which would accommodate its opinions to the wishes of those seeking them. Still it deserves in some measure to be received as oracular, although it may manifest some of that fallibility which was imputed to oracles of olden times. I would not say with that opinion, that restrictions such as those, excluding from the enjoyment of two offices of profit under the state of Maryland by the same person, and at the same moment or even such as the present, although they may be odious, are therefore, by mere construction to be rendered absolute nullities in point of operation. But I would say, that they ought not to be carried by construction beyond the express letter; and that unless absolutely necessary, they ought to be repealed, not by implication or construction, but by the express act of this house. In all established 63 governments, some restrictions upon the right of choice or appointment to offices have been imposed, and in some instances properly. In all states the people have been unwilling to give an uncontrolled rein to their will or the will of their agents. To render such restrictions proper, they ought always to be consonant to the nature of human governments. By our constitution, as originally formed, several restrictions of this kind were imposed, some of which it may always be proper to retain—some of which have been already taken away, and one more of which, the one now before us for consideration, will, I hope, soon go the way of all flesh.

When gentlemen talk so loudly about the impropriety of removing any of those barriers and fences with which the framers of our constitution have thought proper to surround the offices of our state, they forget that their precautions on this score have not been altogether approved of by our predecessors, and that in latter days a whole class of restrictions by much the most prominent amongst those found in that instrument, have all

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been swept away at one fell stroke.—Those revered men held, that no individual could feel a sufficient interest in the government, or in the advancement of the public welfare, unless he possessed real or personal property within the state, varying in amount according to the importance and responsibilities of the office: and they therefore required a property qualification for the enjoyment of almost every office within the state. In 1809 and 1810 the delegates of Maryland deemed these restrictions idle and libellous upon human nature, or implying that nothing but pecuniary interest could stimulate to the performance of duty, and they were therefore all removed at one instant. Is it then high treason at this day to doubt the propriety of other restrictions found in that instrument, even if we could deem them to be even *now* deserving of the approbation of those who have inserted 64 them? A small supposition, the fallacy of which I have already endeavored to expose. The hand of violence has already been upon those restrictions and it is now too late to call it sacrilege. Some yet exist as to age and residence within the state or county, for which elected or appointed: but these do but require civil qualifications which are properly connected with civil offices and conform to their nature. It may be right and proper to exclude, by a general rule, all not having resided a certain time within the state or county for which they are elected, inasmuch as in general before that time they cannot be deemed to have acquired a sufficient knowledge of the condition and interests of the state or county, or of the duties incident to offices.

But there is no such conformity in the case before us. Religious opinions may indeed better qualify, but they are not absolutely necessary in order to the discharge of civil duties. Men may discharge, and often do discharge, the social and relative duties in a proper manner from many other motives than religious motives. There is not, I would suppose, a man in this house who would have the hardihood to deny, that men may be good and affectionate fathers, tender-hearted husbands, enterprising and useful citizens, and even zealous patriots, without being practical christians. There are a thousand impelling causes to the performance of duty, which may indeed be different in their degree, in order, and in their force, which, notwithstanding all, tend to produce the same result.

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One man may discharge his public and private duties, because he regards himself as always in the presence of his God and accountable to him for every act which he does in a public or private capacity. Another, who is wholly blind to these considerations, may have continually in view the approbation of his fellow-citizens, and the applause of the world; and for the purpose of obtaining that, may be stimulated to the performance of 65 the very same duty discharged by the other from a higher motive. Another may find every thing around him to endear him to the country in which he dwells. There may be no bush, or stream, or grove, around him, which does not tell him some tale of infancy and early innocence; scarcely a dwelling which does not contain some friend. There may be vast possessions about him, the fruit of his or her ancestor's industry. There may be lisping, prattling infants at his feet who would stimulate him to cherish and advance his country as it will in time become theirs. In addition to all these impelling motives may be named those furnished by the suggestions of that internal monitor, the conscience, which is not peculiar to any clime or any country, and which independently of all revelation, points out alike to the christian and to the Jew, the believer and the infidel, the *path* of right, and would fain exclude them from the *road* of wrong.

It is not contended that these motives impelling men to the performance of duty are alike equal in their purity, or that they will alike entitle the act to which they give rise, to acceptance and favor with the Supreme Being. It may indeed be true, that the right motive alone sanctifies the act in his eyes. But with motives independently of acts, human governments have nothing to do. Scrutiny into these is reserved to him who searcheth the hearts and tryeth the reins of men. In the intendment of human laws, if the act performed be right and legal, it is unnecessary to inquire into the motives. So in relation to offices; if men do discharge their official duties, it is to us and to this our constitution, a matter of the utmost indifference whether it has been performed from one motive or another, or from any motive at all. Nor would I here deny that a belief in the christian religion, not such a one however, as is evinced by this cold, unmeaning test, but a practical belief, does indeed better qualify for the discharge of 66 every duty, individual, relative or social—

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It may point out to us more distinctly what our duty is—It may impel us to the discharge of it by motives of a higher order, and having much more efficacy. But, sir, the question before us is not one of better qualification, but of disqualification; not one of preference, but of exclusion. It is not whether the right of one believing in the christian religion ought to be preferred, but whether the right of one not believing ought to be utterly excluded. To enable any one in this house confidently to deny, that any but believers in the christian religion can properly and faithfully discharge the duties of a citizen, either in a private or in an official capacity, it is first necessary that he should forget all past, all heathen history; it is first necessary that he should forget all the events passing in the heathen world, even in this our day. You must throw him back into a state of worse than Gothic ignorance.

Before I can yield my assent to such a doctrine, I must first forget the history of him who leaped into the gulf, that he might save his country, or of him who sought death upon the enemy's spear for a like purpose. I must forget the history of him, who to satisfy the offended laws of his country, violated by a son, although clothed with the power of dispensing with her, yet gave his own person to the law in partial sufference of its penalties—I must forget the history of him, who could voluntarily exile himself in old age from all the enjoyments of his native country, that she might forever enjoy the benefit of a code of laws which had been the work of all his earlier years.—I must forget the history of him, who through a long life, and in many seducing situations, was yet so regardful of the cardinal maxim of the christian gospel itself, “do unto others as ye would they should do unto you,” that his name in all after ages has ever been connected with the epithet of “just.”—I must forget the history of him, who could abandon a plough, clothe himself with the power, and robe himself with the splendor of royalty at his country's call, and at the same call lay them down to resume his coarse garments and rustic occupations.—I must forget the history of him, who, although surrounded with all royalty's flatterers and summerflies, was yet ready to weep that one day had passed by unnoted by the performance of a good action, and cried out “I have lost a day.” Aye, these and a thousand such histories, such as

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these, must you and I forget, ere we could hazard the assertion, that none but christians can perform the duties of citizens.

Perhaps some may be ready to exclaim—"All this may be true in the general; but you forget that Maryland is a christian state, that the christian religion is here established by law; and although as applied to a mere civil community, these doctrines are appropriate and just; yet when applied to a christian community, such as this, they are wholly inappropriate." The term, "christian community," or one of the same import, has been frequently used by the enemies of this bill, and more especially by the mammoth opponent upon whose "remarks" I have already commented; and it may be well to inquire in what sense this term is accurate in relation to the state of Maryland.—Do gentlemen thereby intend to assert, that the government of Maryland is a mere hierarchy? a government of the saints upon earth, and designed solely for the protection of christians? Would they have us to regard it as a mere christian association? Do they wish to claim for it, proceeding as it does from mere man, the same high and exalted character which belonged to the Jewish government, as imparted by God to a chosen and peculiar people? The notion is so preposterous that I cannot suppose it to be entertained by them.—Or would they call this a christian community, because christians are here ensured the free and unmolested exercise of their religion, are here protected in their worship and their religious feelings, here sheltered from insult by the laws of the land? It is true that in the latter sense this is a christian community. It is true, that in this sense christianity is a part of the law of the land. All the common law, profane scoffing at the christian gospel; all endeavors to turn it into ridicule, and all revilings against, and contumelious reproaches of our Saviour, are regarded as offences punishable by fire and imprisonment.

Acts have been passed both in England and in our state, to extend the civil establishment of the christian religion yet further, but the good sense of the age has reprobated and repealed them in our land. The English law, to which I have allusion, passed during the reign of William, does indeed extend civil interference beyond protection from contumely and insult, even to deliberate and advised speaking, and has actually converted into a

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temporal offence a denial of some of the essential doctrines of the christian church. Yet still in this act some little respect was paid to the rights of conscience, inasmuch as such denial was only constituted an offence when made by those educated in, or professing the christian religion, and was still open to other religious sects, if done in a respectful and truth-inquiring manner. It remained for our act of blood, passed in the year 1723, and which was the last in succession of a series of similar acts, not only to close the mouth of contumely and reproach, but even of candor and sincerity. It remained for it to seal up the christian religion by the aid of temporal power; to close by civil penalties the mouth of the serious and earnest inquirer after the truth of its doctrines, or of the honest though mistaken disbeliever of them, whilst the very author of that religion, instead of suppressing, had invited and challenged inquiry, and had bid defiance to disbelief. Until this moment I was, 69 sir, under the impression that this black-letter, draconian act continued, as many others of like character, to stigmatize our statute book even to this day, as a monument of the folly or wickedness of our ancestors; but I am just informed, that within the last two years this portion of the black-letter absurdity and barbarity of our statutes has been wiped away to the eternal honor of this age. By this detestable act the denial of the divinity of Christ, or of the doctrine of trinity or of Christ's atonement, although made in the most serious manner and not in mere scoffing, although made according to the lights and convictions of conscience and in honesty of intention, although made even in an act of worship by the Jew or the unbeliever, who might perhaps at that moment be engaged in imploring God in mercy to shed around us that light under which he conceived himself to be dwelling; even such sincere and God-forgiven denial was made punishable by death for the third offence. “ *Let it then sleep in the shade where cold and unhonored its relics are laid.* ”—Christianity now rests for its establishment amongst us solely on the wise and merciful doctrines of the common law.

These doctrines, sir, are purely those of a civil government and are characterised by much wisdom. When they would seal the mouth of the reviler and the scoffer, they do not in the least infringe the rights of conscience. Never yet did men of this cast seek for truth—never

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yet was bare reviling or contumely calculated to promote its discovery. Having the single tendency of irritating or wounding the feelings of those to whom the object reproached is dear, they should ever be frowned upon and punished by civil governments. The doctrines of the common law should, as I think, go yet further, and punish without discrimination all revilings against any religion whatsoever, as attended only with pernicious consequences. So far is this a christian community, that 70 christians may here worship unmolested, and their religion is here protected from mere reproach but not further. I object to this test because it would carry the civil establishment of religion yet further, and to a degree not warranted by the character or legitimate designs of civil government, and not required, or rather deprecated by the religion to which it is applied. I object to it because it has a direct tendency in common with all other religious tests, to revive the almost exploded connexion between church and state, under whose double tyranny Europe languished for so many centuries, because it goes to establish a hierarchy in our land, because it makes the christian church, what it was never designed to be, by its divine author, *a church militant*.

If this or any religious test can be sustained in argument, its advocates must rest its defence upon one of two designs:—Either it must be designed to operate indirectly in propagating the religion or religious opinions which it would make the sole passport to civil offices; or it must have in view their protection and preservation from overthrow by the arm of civil power. Those who contend for the propriety of religious tests are here placed upon the horns of a dilemma. They must admit one or the other of these designs to furnish the only plausible or assignable reason for the introduction or continuance of religious tests. The first of these designs is, however, a mere supposed one, and one which every christian and every rational man must instantly disclaim. It is not to be denied, that the allurements of official power and official profit may, and indeed often do, seduce men from the ranks of other religions, but have never yet *won souls*; and the same seductions which would draw them over to the forces of a prevailing religion, would upon a change of circumstances, have equal efficacy in restoring them to the ranks which they have deserted. If men are to be drawn from the forces of heresy or infidelity, to those 71 of

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orthodoxy, they can be made sincere adherents only by a heart-felt conviction of the intrinsic excellence of the cause they are about to espouse.

The only remaining ground of defence is their propriety & efficacy in protecting the religion which they make the passport to office. Enough has been said, as I think, to evince to this house their utter inefficacy in producing the desired effect. It remains to point out their impropriety.—To render them proper, it is incumbent upon their advocates to prove several things. It is not sufficient for them to shew, that in the abstract, civil governments are moving within the sphere of their powers and duties, when they undertake to make religious opinions of any cast prerequisites to the enjoyment of civil offices. It is not sufficient to shew that it is right and proper to prescribe religious tests. They must go yet further, and demonstrate that an occasion has presented itself justifying and requiring the prescription of them—that the religion in whose hands they would exclusively entrust civil power, requires civil protection, and that such protection cannot be adequately yielded without the grant of such exclusive civil power. All these propositions must be sustained, otherwise religious tests are defenceless.—Their advocates must admit that every restriction upon the right of electing, residing in the people or upon the eligibility of the subject, which is found in the constitution of a free people, is odious, is an infringement of the rights which belong to the electors and the elected, as members of society, and can only be justified by the calls of some higher right or some imperious necessity. Governments may, it is said, prescribe religious tests, if they deem it proper—Admit it for a moment; and does it therefore follow that because they have the power, they ought to exercise it? that because they may prescribe, they ought to prescribe religious tests? If they are to be blind and to exercise no discretion in the use of their power, then such a doctrine may be proper, otherwise not. Pursue the same train of reasoning and it will conduct you to the conclusion that every restriction, however unnecessary, however unrequired, is yet right and proper. You may bring back all the old restrictions as to property qualifications; you may, by the same reasoning, exclude all poor men from the offices of your state; you may give them exclusively to professional men. If then the

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religion which they design to protect and sustain, be admitted to be sufficiently powerful for its own protection, and in no wise to require for such purpose the exclusive right to wield the civil powers of your state, then, although you were admitted to have the power of prescribing religious tests, you are still not justified in prescribing them or continuing them, because they are not necessary or required, and are in contravention of acknowledged civil rights.

Sir, my reflections upon this subject have induced me to deny “ *the abstract right and propriety of prescribing religious tests* ”—They have induced me to deny their necessity, & let me briefly state the reasons which have conducted me to this conclusion. Religion and civil government are essentially different in their nature and modes of operation—The one is the law of God, the other the law of man, and hence their striking differences. Human governments look but to the outward man—they sit in judgment but upon the action—if the action be proper and legal they can go no further—if they punish but for the secret, unexecuted thought, the judgment of the world never fails to pronounce the act odious and tyrannical. But religion deals only with the inward man—it calls into judgment for every secret thought. Thoughts and intents are solely the subjects upon which it operates, and it dives into the heart and drags them thence for inspection. Human governments regard man solely as a member of society, and all their operations have for their sole object the performance 73 of social duties, of the duties of a citizen, Religion regards man solely as the creature of an all-wise and all-bountiful Being to whom he is indebted for life and all that renders life estimable, and to whom in return for his protection and beneficence he owes *obedience*, submission, veneration and thanksgiving.—In a word, the empire of human laws is “actions,” of religion is intents—the former is the empire of matter, the latter of *mind*. This view of their characteristical differences shews us in a very clear manner how grossly human laws err when they wander beyond the region of *actions* into that of mere feeling, thought or belief unaccompanied by acts.—Hence it is that mankind have always regarded with the utmost abhorrence and have always denounced with the most

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unsparing severity, all the acts of human governments calling men into judgment for secret, unexecuted thoughts.

Such a view serves also to show us how idle and worse than idle are all the attempts of human governments to inculcate religious doctrines or to sustain or to overthrow them. If they take root at all, they spring in a soil over which human laws have no control, in the heart over which God alone has dominion. Here by the decree of Providence they cannot come. When then men talk of giving a protection to religious doctrines, of cherishing religious feelings or of extirpating them by human laws, they are speaking of what is in the very nature of things an absurdity and an impossibility. Sir, the only sense in which human governments can be said to protect religion is by preserving secure and unmolested the persons and property of those who profess it or believe in it. They cannot protect religion, they can only protect its followers. The christian religion in the days of Heathenism, when its followers as its author had not a home in which to shelter themselves, when they were driven to deserts and caves for protection, when they were cast to wild beasts to be devoured, K 74 when they were torn or sawed asunder or roasted by the slow fire, was as strong, as powerful, as well fenced about and protected as it is at this day, in Maryland, where this test exists and where christians or nominal christians are exclusively robed with civil authority. Yes, Sir, when it was oppressed and trodden down by the great scarlet beast of infidelity, it was as powerful, nay, even more so than it is now amongst you. It has intrinsically nothing to fear from your operations, it can gain nothing from your assistance. Your laws must therefore be content to regard man solely as a member of a civil association, for all human governments rightly considered are nothing more—they are in fact merely associations of individuals, who in order to secure for the protection of their rights the combined assistance and strength of all those with whom they are about to associate, have each consented to yield up a certain portion of their natural rights; and all the powers of human governments are composed entirely of those portions of natural power, ceded or presumed to be ceded by each member of society. The whole control of human governments over their subjects is based upon a presumed assent given by those

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subjects to the exercise of such control; and as in a state of nature no such control ever religious opinions exists any where, it cannot by possibility exist any where in a state of society. Individuals can only cede to governments the powers which they have, and the latter can only exercise the powers which individuals have or may be presumed to have ceded to them. Civil governments must, therefore, of necessity abstain from interference with religious opinions until they produce a neglect of civil duties or violations of civil right.

In yielding protection to religion in the only sense in which they can be said to yield it, they must yield it indiscriminately; they must regard it as wholly without their jurisdiction; they must not intermeddle with its followers as such, either for good or evil, until it leads them into some breach of civil duties. Our declaration of rights, in its 33d section, has recognized in very distinct terms the propriety of these limitations of civil power. It explicitly declares the right of all men to worship God in the manner which they deem most acceptable to him, and that they ought not to be molested by law in their person or estate, because of their religious persuasions, professions or practices, unless under color of religion they disturb the good order, peace or safety of the state—infringe the rights of morality or injure others in their natural, civil or religious rights. This clause, if literally construed, does of itself seal the death-warrant of all such religious tests as this. If thus construed, we cannot but regard the inhibitions to molest in person or estate because of religious opinions, as tantamount to a prohibition of the deprivation of any civil or political rights whatsoever for such cause. The word “estate” must be taken to mean not merely property, but civil and political estate or condition. And the protection which is to be extended to the followers of any religious sect, is a protection given to them not as followers of that sect but as citizens. As it relates to the enjoyment of their religious opinions, the only protection which can be properly given is a bare protection from insult, a bare sufferance of existence. It should be a calm, cold protection, extended by the hand of indifference—It should be such a protection as would have been extended by the philosophers of old, who held all religions equally useful in a civil point of view—It should be a protection not professing to be in any degree founded upon a conviction of

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the intrinsic excellence of the religion protected, but solely upon the knowledge that its doctrines and external observances do not militate against the duties of a citizen.

Mr. Speaker, when human governments are treading ⁷⁶ upon the delicate and dangerous ground of civil interference with religious opinions or institutions, and when they would travel beyond the proper limits of their authority into an inquiry into the intrinsic excellence of any religion existing under them, and when they would carry their interference beyond a mere sufferance of existence to exclusive civil establishment, they would do well to remember the wise and salutary doctrine of Gamaliel of old, as it is found in the christian gospel, and as it was applied to the christians themselves for the very purpose for which it is now about to be applied to the Jews and other unbelievers. “Let these people alone,” said he to his brethren the Jews, who were then meditating the commencement of civil persecution against the christian religion and its followers, in the hope of extirpating them —“Let them alone,” said he, “if their design be of men, your efforts are unnecessary; it wants a firm and stable foundation, and it will fall to the ground without your exertions. If it be of God, ye cannot gainsay or resist. Take care lest in your interferences with them you be found striving against God himself.” Let the equally wise and liberal conduct which the Jew of old prescribed to be pursued by his brethren, the Jews of that day, in relation to christians and the christian religion, at that time just raising their heads upon earth, be the very course which the christians of this day, the christians of Maryland, will hereafter pursue in relation to the Jew or the infidel.

The tables have turned; the case to which this doctrine is to be applied presents the parties whose interests are involved in it, in a very different point of view. That religion which was then a stone cut out of the mountain, now fills a large portion of the globe. The Jew who had then the power to oppress, is now prostrate before the rod of civil persecution; but from age to age it is the same wise and salutary doctrine; and it is one which the christian of this ⁷⁷ state should blush to see banished from his practice in relation to those very people who once applied it to his own religion, then equally the object of scoffing, reviling and oppression. Let no one say, “ *we carry this doctrine in*

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relation to this people as far as it was extended by their ancestors to our religion, and we have extended it as far as reason requires us to carry it in giving them the uninterrupted enjoyment of life, liberty and property. ” They did not indeed extend to christians or to followers of any other religion, or to people of any other nation, any degree of political privilege or liberty; but they went as far on the road of toleration as their government permitted them to go. Theirs was not as ours, a mere human government; theirs was in all respects a hierarchy; every civil institution, every ritual observance, every religious doctrine, in fine, every thing connected with them as a people came alike from the hands of God, whom they regarded even as the head of their civil government. Every part of their civil and religious polity had been built up by the hand of Providence as a barrier and wall of separation between them and all other nations, until he should come who would cause it to be swallowed up in a religion embracing Jew and Gentile, people of all nations and of all tongues.

When we can plead for our civil polity the same divine origin, it may be proper exclude all but the saints from civil government, but whilst it bears about it so many marks of mere mortality, and whilst it professes to be nothing more than a mere bond of union, mere articles of association between mortals, we must be content to regard it as such. It is, therefore, that I would deny the assumption that we do in practice amongst us carry this doctrine of Gamaliel as far as reason demands; it is, therefore, that I deny the assumption that there is nothing like persecution in these tests. In what language have gentlemen found so limited a signification given to the 78 the word “persecution?” Is nothing to be termed such but an actual imprisonment of, or violence done to the body, or a deprivation of property?—Nothing but that which operates upon the mere matter of human nature? I have always supposed, that every denial of a right due to any citizen because of opinions or beliefs which give no cause for such denial, is *persecution*, whether that right be a right to bodily safety, to property, to elect to office, to hold offices, or any other natural or social right whatever. A contrary doctrine is one, which, as I would suppose, gentlemen would be ashamed or afraid to avow in this state. Why, sir, for what have we fought, and

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what did we establish, if it be not the doctrine “that men are not the mere property of their governors—that government is created for their benefit, and ought therefore to be subject to their control, and liable to be altered or cast off at pleasure, and that for this purpose every citizen of proper discretion has a right to have his voice heard in the government under which he lives?”—Then why not apply these doctrines to these citizens as well as to others? why not to citizen-Jews as well as to citizen-christians? are they not your citizens do you not tax them as such? do you not give them the right of voting as such? do they not hold property among you as such? If your government is admitted to have the power of taking away civil or political rights improperly, from any one citizen, it may from all. If it can take away one class of such rights, it can take away all. You may with equal propriety take away the right of voting, and leave such citizens wholly defenceless at your feet.

Therefore are religious tests pronounced to be *improper*, and what has been said serves strongly to manifest them wholly *unnecessary*. Why would you extend protection to religious systems beyond a bare toleration? Is it because they require it in order to their sustention? The very admission that they require it stamps the lie upon the character which they wear and proves them to have nothing of divinity about them. If they do not require it, if they can sustain themselves without it, why then yield it at the expense of the civil, political or religious rights of others? Why furnish it when your very establishment of such systems has a tendency to weaken them, to draw them away from the strong arms of God, and to teach them to lean for support on frail, tottering man?

Sir, my convictions that religious tests are unnecessary and improper in the State of Maryland, are very much strengthened and become almost irresistible, when I look to the origin of the religion to which, for its security, they would give exclusively the civil powers of your state—when I call to memory the conduct and the language of the author of that religion throughout his earthly career—when I witness its progression to the present time, and its various conditions in the course of that progression.—I have not found that author seeking for the propagators and protectors of the system he was unfolding to man, amongst the great and the wise and the wealthy and the powerful of earth.—I have not

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found him in obedience to the vain and idle notions entertained by the Jews of his day, seeking to robe himself or his religion in temporal power or splendor.—I have found him in the tents of the poor, illiterate and despised fishermen, confiding to their yet unskilful and powerless hands, the promulgation of his gospel. He has said “that his religion came without hands and shall progress without hands, that is to say without human aid.” These tests say “it requires and ought to receive human aid.” He has said “his kingdom is not of this world.” These tests say “his kingdom ought to be and shall be of this world.”—He has said “take not the high seats in synagogues or the lordly places amongst men.” These tests say “take them and take them exclusively.” He has 80 said “that his religion shall go forward and prevail against man.” These tests say “we must take heed lest it fall before men.” Ought not christians instead of advocating such tests rather denounce them as false and as containing by implication a libel upon their religion? Were the author of that religion in this assembly this moment with the dove from heaven on his head, he would tell you one and all “ye are stigmatizing my religion by the continuance of these tests—ye are making it of man when I have told you, when its own uncultured growth and increase has told you, it is of God.”

But if the civil establishment of religion, by tests or in any other way were only unnecessary, although that very fact is sufficient to justify or rather to require the downfall of such establishment, it does not more imperatively demand it than the consequences of such establishment upon the religion established. Not only have your excluded citizens reason to complain of it, but your religion itself as loudly rebukes you in the midst of such acts. It tells you that when you touch it, when you incorporate it with your civil institutions, when you seek to make it a civil institution, you taint it with human impurities, you withdraw it from the arm of God, you throw it upon the arm of man, you strip it of its divine, you clothe it with an earthly character.

When was it sir, that the christian religion was the most pure, when the most powerful? Was it not in the very day when all the princes of the earth rose up against it, when persecuted its followers reviled not, when trampled upon, they turned not in anger? In

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what æra of the christian religion can you point out to me such bright examples of piety, fortitude, self-denial, forbearance and every christian virtue, as are furnished in the lives of the fathers of your church, as they are termed, in that day when they had nought to sustain them but a conviction of the intrinsic excellence of their cause? In what age 81 can you point it out to me so well sustaining itself, so vigorously advancing itself as in that age? Sir, from the very day on which Constantine saw the cross in the cloud, from the very day which first saw it recognized by the civil powers, may you date the commencement of all those corruptions which so degraded and deformed your religion during many ages of almost Heathenish superstition. You may witness in the frightful history of this gloomy and protracted period, and in the origin and progress of almost every religious sect known to you, to exclusive civil establishment, where that has taken place, the unseparable concomitants of such establishment, pride, arrogance, self-love and a contempt and prostration of all other religious sects. Where have you found gross corruptions or hideous immoralities but in established churches? Where have you found an insolent, haughty, domineering clergy but in established churches? Where have you found a superstitious, enslaved and degraded people but in established churches? Where have you found a system which is in itself a system of humility, moderation, temperance, forgiveness and philanthropy in its practical operation, converted into a system of arrogance, ostentation, intemperance and persecution, where but in established churches?

Most unfortunately for himself and to the downfall of all his positions, the sage author of the remarks of which I have already spoken, has, in his wisdom, referred to the history of revolutionary France as shewing what christians and the christian religion have to fear from the extension of civil power to any but believers. It is alas! a most unfortunate instance to which to refer, to illustrate the consequences of a neglect to give a civil establishment to the christian religion, an instance which above all others, most conclusively evidences the pernicious tendency of such establishment.

Why was it, sir, that during that unfortunate æra the L 82 doors of the christian temples were closed, their ministers driven in mass from the French Kingdom, the whole christian

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system pronounced to be the fabrication of mere mortals, and even death itself declared to be but an eternal sleep? Was it because the christian had previously enjoyed no civil power in the land? Was it because he was without any other arm to sustain than that of God, any other sword to wield than that of conviction, any other persuasives than those which were to be found in the intrinsic merit of the religion he sustained, and in the heart-piercing efficacy of a holy life? Or was it not rather because the christian religion had been clothed with purple and fine linen and placed in the high seats of power and dignity? Was it not because its guardians and ministers, lifted up above themselves and above the meek and lowly character of their office, grown blind to its duties by gazing upon the splendor of their temporal station, and in the fancied strength of human support, casting off their reliance upon divine protection—was it not that they thus infatuated, exchanged all the virtues which belonged to, and became their spiritual office, for all the vices which too often await the enjoyment of such temporal power and rank?

Unreflecting mortals always judge of a system from the character of those who sustain and propagate it; and in general such a mode of judging is proper and satisfactory. More especially in religious matters do men find it extremely difficult to separate the conduct of followers and propagators from the characters of the religion adhered to. So did revolutionary France judge; and when looking back through the history of the ruling church, she found nothing but abuse of power and gratification of every lustful appetite, exemplified in the conduct of the prominent members of her hierarchy, in the bitterness of her indignation against the corrupt character of her priesthood, she cursed and prostrated the system to which it was nominally attached. It is absolutely necessary to the sustention of religion and the preservation of it in its original purity, that its followers should have continually before their eyes its entire dependence upon God and the necessity of continually exemplifying its influences in their lives, in order to its propagation. All this they too often lose sight of, when they find other props upon which to rest it.

But, Mr. Speaker, if such tests as these are inconsistent with the character of human governments generally, and even of pernicious tendency to the religion which they would

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protect, permit me to ask in conclusion, if they do not appear doubly so, when applied to the government under which we live?—When I look to the contrast which it presents with that of other nations, I cannot refrain from using my own language, framed for a different object, but equally illustrative of this:—

In thy wanderings through the wood, Hearer, hast thou never viewed
Some dell of dark and dreary hue,
On which o'er-arching branches threw
A shade unbroken, save by ray
Which here and there by winding way,
Through scarcely parting branches strays,
And steals to earth through leafy maze—
Hast thou not marked where'er it fell,
How every herb of that dark dell
Grew bright and fair beneath its glance;
Their brightness serving to enhance
The dull, drear tints of those which drew
No draught of light to vivify their hue.

Such, sir, is your country,—the bright green spot of the earth rendered but the more brilliant by the dark, dreary shade around it; and why sir, let me ask you and this House, why is it thus bright and dazzling? It is not to be found in the fact that we have promulgated any new doctrines in relation to civil, political or religious rights. It is not to be found in the fact that we are in the actual enjoyment of civil liberty. It is not that our persons are actually exempt from insult and our property unmolested by the hand of unlicensed violence.

This is that of which, as I have elsewhere observed, the meanest citizen of Europe or Asia, in some of its most oppressed and degraded sections, may boast in common with us. But the great and leading distinction between our country and others is, that what with them is a mere matter of indulgence, resting solely upon the personal virtues of those in authority over them, or springing from the comparative insignificance of the person exempt, is with us a matter of right, in no degree dependent upon such contingencies, and a right effectually protected by the share which each of us have in the administration of the government. It is not the actual enjoyment of the rights of person or property that constitutes what I would term “civil liberty,” but it consists in the belief that we enjoy such rights, and in the knowledge that the power is resting in our own hands, by which we can

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protect ourselves in the enjoyment of them. It is political liberty alone which renders our government of any value—it is that alone which gives us what I would denominate “civil liberty.”

All this ye have denied, or ye may with equal propriety deny, to every citizen who will not declare his belief in the christian religion. You have taken away the right of holding offices, and ye may as properly take away the right of electing to offices.—Where then is all that boasted civil liberty, which, it is said, Jews and other unbelievers enjoy amongst you? It rests merely upon your good will and pleasure, a tenure which civil liberty ever did disclaim. It deserves not the name of liberty, but simply that of personal indulgence. You may not, it is true, persecute them, in the more narrow sense of the word, but what is there to inhibit you but your own unrestrained dispositions? What security for them, but that which they might find in any government?

It was the denial of that very species of liberty which you yourselves are refusing to your own citizens by this test, which impelled your ancestors to that spirited resistance, that gave you this very constitution. Their persons and their property might, with as much truth, have been pronounced secure as those of the Jews and others amongst you at this day—they enjoyed civil liberty by as durable a tenure. What was the most prominent and material part of the grievances of which they complained? It consisted in acts of legislation, in which they had no participation. It was found in the attempt of the English Parliament to do for them what you at this day are doing for the Jews and unbelieving citizens of your state, kindly saving them the trouble of giving their assent to laws passed in a legislative body, to which they had not admission, but which were to operate upon them. They did not think as gentlemen of this day seem to think; that actual enjoyment for the moment and a right to enjoy are synonymous and convertible terms; at least they cast off the strong ties of parentage, and risked all the privations and dangers of an unequal war for the purpose of changing the former into the latter.

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Let me tell you, sir, in conclusion, that yours is the only government in which Men have not deemed it advisable to disguise and mask the deformity of religious tests, by political reasons of some kind or other, however flimsy or transparent they may have been. Yours is the only state in which they have no political fig-leaf to hide their nakedness. Yours is the only state, to its shame and disgrace be it confessed, which has attempted to meddle with religious opinions, merely as such, in fixing the qualifications for civil offices. You may upbraid the English government at your pleasure, for the extent and 86 severity of the disqualifications she has levelled against the Roman Catholic citizens of her kingdom, but she lags far behind yours. In the plenitude of her bloody restrictions, she was ever ashamed to avow what some amongst us seem make a matter of boast, she was ever ashamed to say, that she thus disqualified them because of mere religious opinions. She charged them with blending with these, political doctrines and designs, incompatible with the duties of a British citizen—She alleged that they acknowledged the supremacy of a foreign temporal power, and she excluded them upon the same principle that she excluded an alien.

If I had not already trespassed so far upon your indulgence, I could point you to the Armada, the gunpowder plot, and many occurrences of the reigns of the Charleses and the Jameses, and of the first monarchs of the Protestant succession, as furnishing many plausible, if not weighty political reasons, for the existence of such civil disqualifications. Your own provincial government knew no other religious tests than those which were introduced for the security of the Protestant succession to the English throne. It remained for your state government to exhibit an unblushing interference with what is the exclusive prerogative of God, a scrutiny into mere religious opinions.

Sir, I can but too surely foretel the fate that awaits this bill; I know but too well the result of the late elections amongst you. But if its enemies should be triumphant, it is a triumph over which they should rather weep than rejoice. They may rest assured, that the higher they exalt this idol of theirs, this darling clause of our constitution, they are but

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lifting it up to its fall—Its elevation will be as that of a pigmy upon a pedestal, to use the expression of another, which only serves to render the littleness of the elevated object more conspicuous; it will but the 87 more attract to it that which it has every reason to fear, the earnest and scrutinizing gaze of our citizens; and, sir, the shouts of the victor will not die away before they are succeeded by the groans of the vanquished. I have done.

FINIS