

an authority which I trust I may commend still more strongly to the attention of this House. I will read an extract from a speech of Daniel Webster—a very short one but a very comprehensive one. No man in any age or anywhere, ever used the English language with more terseness, and accuracy, and beauty and power, than Daniel Webster. He had the happy faculty of clothing his thoughts in language that was clear and conclusive. The extract is this:

“Free speech is a homestead right, a fire-side privilege. It has ever been enjoyed in every house, cottage and cabin in the nation. It is not to be drawn in controversy; it is as undoubted as the right of breathing the air or walking on the earth. It is a right to be maintained in peace and in war; it is a right which cannot be invaded without destroying constitutional liberty. Hence this right should be guarded and protected by the freemen of the country with a jealous care, unless they are prepared for chains and anarchy.”

Now, sir, I rest this article upon these authorities, and upon the good sense and sound discretion of this Convention.

Mr. CUSHING. I have no objection to the principle contained in the general proposition of freedom of speech. But our bill of rights is already five articles beyond the usual length. We have already forty-four articles and I shall oppose the introduction of any other article, unless it enunciates some new provision in the political relations of Maryland which we have discovered since 1776. During the speech of the gentleman from Somerset, (Mr. Jones), I was continually reminded of an anecdote I once heard. After Mr. Pinckney of Maryland had once argued from six to eight hours before the Supreme Court of the United States upon elementary principles of law, to which they had listened with great attention, at the close of his argument, the Chief Justice mildly suggested that there were some things which the Supreme Court of the United States might be presumed to know.

Now we in Maryland have lived for eighty years without such an article in our bill of rights, either of 1776 or 1850. And I have never yet learned, either from the history of this State from that period to this, or from my own experience, that the freedom of speech has been at all limited in the State of Maryland. Not only that, but so far as I have heard, it has gone to the extreme of license on many occasions. And while I may have voted for this proposition in a short form, as the easiest way, I hold it to be unnecessary to put in as a separate article that which those who have gone before have held to be a general and self-admitted truth. I see no good to be subserved by putting this in, because no power under the Constitution of Maryland can take away the freedom of the

citizens of Maryland in that respect: while if there is any power above our Constitution which may choose to take it away, we cannot prevent it. I am willing to vote for a new article embodying a new principle, such as the one which notice has been given of by my colleague, (Mr. Abbott), to the effect that all men are born free. As that is a new principle, so far as the State of Maryland is concerned, I shall vote for it.

Mr. STOCKBRIDGE. I am somewhat surprised at the objection made by my colleague (Mr. Cushing), to the proposition submitted by the gentleman from Somerset, (Mr. Jones.) For though I consider—the gentleman from Somerset will pardon me for saying so—that the proposed article is somewhat infelicitously drawn, yet the doctrine it enunciates is not altogether so new as my colleague supposes.

Mr. CUSHING. Not so new; but so old as to make it unnecessary to state it.

Mr. STOCKBRIDGE. We have already, in the thirty-ninth article, provided that the liberty of the press ought to be inviolably preserved. That preservation of the liberty of the press, however it may be arrived at, ought in some form to be secured against all irregular remedies or restraints applied to it, as well the regular, authorized, legal restraints. We have had in this State, and very recently, great restraints imposed upon the freedom of the press and the freedom of speech also; and, therefore, it might be well, if it be possible, by an article here to secure it. If we take up our own code and refer to the thirtieth article of that code, we will find very stringent restrictions upon the liberty of the press. It is true it is under the head of “Incendiary Publications.” But, then, those publications not being defined at all in the phraseology of the law, we are thrown back upon the discretion of the judge—a thing about as certain as the length of the chancellor’s foot—to decide what is incendiary. And not only has this restriction upon the freedom of the press stood as the law of this State year after year, but within the memory of persons who now hear me, men have been indicted for taking from the post-office some of the best commercial papers to be found in the country; papers published in the great commercial metropolis of the country, giving the best foreign intelligence, discussing ably the most vital questions of the day—men have been indicted for taking them from the post-office, simply because they did not exactly coincide in all points with the notion as to what was, and what was not, incendiary.

But this provision of our code goes farther in its restriction upon the freedom of the press. Not only does it punish those who shall knowingly assist in circulating incendiary publications, but it makes the grand juries in our State competent to bring before them—not only competent, but it makes it