

agent on or before the first day of November next, and the residue, with interest thereon, on or before the first day of May in the year 1827; and provided also, that the said Anna Baker, and other memorialists, shall give within two months from the adoption hereof, satisfactory security to the said state's agent, to the use of the state, for the punctual payment of the judgment aforesaid, in the proportions and at the times herein specified.

Mr. Howard obtained leave to withdraw the report of the committee on the petition of Alexander Nesbit.

And delivers the following:

The committee on the memorial of Alexander Nesbet, administrator de bonis non of Thomas Cockey Deye, and to whom the former report has been recommitted, begs leave to report—

That the claim of the petitioner is just, and ought, in the opinion of the committee, to be paid as demanded, and if the remaining period of the session was sufficient to enable the house to examine the subject, the committee believe there would be no difference of opinion as to the course which ought to be adopted. But at this advanced stage of the session it could scarcely be expected that the urgent demands upon the time of the members would allow sufficient leisure to investigate the subject, which, under the circumstances of the case is peculiarly proper to be referred to that department of the government, whose province it is to decide questions of legal or equitable right, not depending upon the exercise of any mere discretionary power. The petitioner rests his case upon grounds which he believes to be maintainable in the courts of justice of this state, and as the legislature cannot, for the reasons before mentioned, act with sufficient deliberation during the present session, the committee think it but reasonable, that his desire to be heard before that tribunal, should be granted.

The peculiar circumstances of this case forbid any apprehension of danger in deviating from the rule adopted with regard to suits against the state. A similar case, either in fact or principle, cannot occur. The reiterated and uniform opinion expressed by this house upon the justice of the claim, and the difference of opinion now existing between the treasurer and this committee, seem emphatically to call for a reference to the judicial tribunal.

The committee, for these reasons, ask leave to withdraw the resolutions submitted with their first report, and submit the following to the consideration of the house.

Resolved, That the judges of the high court of appeals be and they are hereby authorised and required, to consider and give their opinion upon the claim against this state of Alexander Nesbet, administrator de bonis non of Thomas Cockey Deye, late of Baltimore county, deceased, arising from a purchase of certain lands made by said Deye, under and by virtue of the act of the general assembly entitled, An act to empower Sarah Buchanan, executrix of Archibald Buchanan, deceased, Alexander Cowan, Thomas Sim Lee, Daniel of St. Thomas Jenifer, and Benjamin