

is concerned, that if the Convention continue the institution of slavery, this article in the Declaration of Rights would not necessarily set any man free, because it might be said that he was deprived of his liberty by the law of the land. But it appeared to those of the committee who agreed to this change, that if the policy of freedom was to be adopted in Maryland, as we believed it was, there was no necessity of retaining the word "free," but that the proposition better be expressed in general language.

Now the reason why "*liber homo*" was put in Magna Charta was that there were some in England who were not free; and the barons of England did not intend to declare that the serfs of England should be entitled to the same privileges with themselves. As great as that Magna Charta was an advance in civilization, it did not intend to declare the right of all Englishmen, but was only intended to secure the rights of the barons and their class. Now if slavery is abolished in Maryland, every man in the State will be free, and the word "freeman" would mean no more than "man." Or if it did mean more, it could not apply to the people of Maryland, but to the people of some foreign country where despotism still prevails and where all are not free. And if this Convention shall determine not to emancipate the slaves, no man's right to his slaves would be taken away or impaired by this article as it now stands. If the Convention should emancipate the slaves then the article would be more consistent with the facts, for if there is no man in the State who is not a freeman, then there is no use in making the distinction here. We have, for many years past, gone beyond Magna Charta in regard to all white people, and if we now include all of the other races, there is no use in this word "free" to indicate a distinction which does not exist; for the only class of persons who will not be free are those persons in confinement awaiting trial or serving out the penalty for the crimes of which they have been convicted, and they have been deprived by the law of the land of the rights which they had before.

Mr. JONES, of Somerset. I hope the old language of Magna Charta, which is consecrated by so many centuries, will be retained by this Convention, and restored to the bill of rights wherever it has been removed, unless there can be shown that some decided improvement is made in the phraseology by the proposed change. Every syllable of that great and ancient charter is held by Lord Coke to be so important that it ought not to escape the attention of the learned reader. And I beg to ask the chairman of the committee (Mr. Stirling) if he will not forego his opposition to this amendment in consideration of the opinion of Sir Edward Coke, upon this point of adhering strictly to the language of Magna Charta. He says :

"It is called 'Magna Charta,' not that it is great in quantity, for there be many voluminous charters commonly passed, specially in these later times, longer than this is; nor comparatively that it is greater than *Charta de Foresta*; but in respect of the great importance and weightiness of the matter, as shall hereafter appear.

"As the gold-finer will not, out of the dust, threads, or shreds of gold, let pass the last crumb, in respect of the excellency of the metal, so ought not the learned reader to let pass any syllable of THIS LAW, in respect to the excellency of the matter."

Now I find that everywhere, in all the renewals of Magna Charta by successive Kings of Great Britain, the same phraseology is preserved that is sought to be restored by the gentleman from Anne Arundel (Mr. Miller.) In the original charter of King John, the 25th article was in these words:

"No freeman shall be seized, or imprisoned, or dispossessed, or outlawed, or in any way destroyed; nor will we condemn him, nor will we commit him to prison, except by the legal judgment of his peers, or by the law of the land."

That was the original language in the charter of King John. In the renewal of that charter, with some amendment to it, it was substantially made to read as follows:

"No freeman shall be seized, or imprisoned, or dispossessed, or outlawed, or in any way destroyed; nor will we condemn him, nor will we commit him to prison except by the legal judgment of his peers, or by the law of the land."

In the charter of King Henry III., the language as preserved, is nearly the same as that in article 22 of this bill of rights. The "*nullus liber homo*" of the original is preserved.

"No freeman shall be taken, or imprisoned, or dispossessed of his free tenement, or liberties, or free customs; or be outlawed, or exiled, or in any way destroyed, nor will we condemn him, nor will we commit him to prison, except by the legal judgment of his peers, or by the laws of the land."

This phraseology was doubtless used, as the chairman of the committee has suggested, because villeinage or serfdom then existed in Great Britain; and the barons did not intend that these rights, that they were claiming from the King, and receiving by Magna Charta, should be extended to that class of people. But I think it is very appropriate that we should continue the phraseology there used, in this Declaration of Rights. For although this Convention may pass the section which abolishes slavery in this State, yet it is not proposed, as I understand, to put the freed negro upon an entire equality with the white man; and in that case it will not be literally true that they will be tried by their peers, for negroes do not sit on juries.