The Committee on the Judiciary, to whom was referred a bill, entitled “An Act to empower William Vans to prosecute his claims against the executor of John Codman, deceased;” and also, the Memorial of Stephen Codman, Executor of the last will and testament of said John Codman, praying, that the said bill may not be passed until an opportunity is given the Memorialist to produce evidence in regard to the petition of said William Vans, respectfully submit the following

REPORT.

This bill provides, “that William Vans of Boston, in the county of Suffolk, be, and he hereby is authorized and empowered to prosecute his claims in the Judicial Courts, against the executor and the estate of John Codman.”
Codman, late of said Boston, deceased, as fully, as if the acts limiting the time within which suits may be prosecuted against executors and administrators never existed, and the said acts are hereby suspended for this purpose, any laws, decisions, precedents, customs or usages to the contrary notwithstanding." The object of the act is to suspend, for the benefit of an individual, one of the existing general laws of the Commonwealth. This, in the opinion of the committee, is a violation of the tenth article of the bill of rights, which declares, "that each individual of the society has a right to be protected by it in the enjoyment of his life, liberty and property according to standing laws."

It has been decided by the Supreme Judicial Court, in a case very similar to the one under consideration founded on a resolve for the suspension of the same statute, (Holden v. James, Administrator, 11 Mass. Rep. 396,) that the Legislature have not authority under the Constitution, to suspend the operation of a general law in favor of an individual. The committee are entirely satisfied of the justice and correctness of that decision, and with the reasoning of the court upon which it is founded, and they cannot doubt, that the court, on a revision of the question, would come to the same result. Their decision is grounded on correct and well settled constitutional and legal principles. Since that case, the Legislature have not passed any act or resolve to suspend the operation of a general law for the benefit of an individual. The twentieth article of the bill of rights respecting the power of suspending the laws or the execution of the laws, in the opinion of the court authorizes only a general suspension of a law, and not for a particular case. They say, "here the sovereign
and absolute power resides in the people: and the Legislature can only exercise what is delegated to them according to the constitution. It is obvious, that the exercise of the power in question would be equally oppressive to the subject, and subversive of his right to protection, according to standing laws, whether exercised by one man, or by a number of men. It cannot be supposed, that the people, when adopting this general principle from the English bill of rights, and inserting it in our constitution, intended to bestow, by implication, on the General Court, one of the most odious and oppressive prerogatives of the ancient kings of England. It is manifestly contrary to the first principles of civil liberty and natural justice, and to the spirit of our constitution and laws, that any one citizen should enjoy privileges and advantages, which are denied to all others under like circumstances; or that any one should be subjected to losses, damages, suits or actions, from which all others under like circumstances are exempted. There is no doubt, that the Legislature may suspend a law, or the execution or operation of a law, whenever they shall think it expedient. But in such case, the law thus suspended will have no effect or operation whatever, during the time for which it is so suspended."

The Committee, therefore, have not gone into an examination of the evidence, because, if the facts stated in the petition of said Vans were true, and, if he had an equitable claim against the representative of the late John Codman, the General Court does not possess the Constitutional power to authorize him to sustain a suit on a demand, long since barred by the statute of limitations against executors and administrators. They
can see no reason why this statute should be suspended, which might not be applied to any general law of the Commonwealth, whenever it could be made to appear that a petitioner had lost his legal remedy by mistake or accident; and it is manifest, that this would produce great uncertainty, inequality, and injustice in the administration of the laws, would greatly weaken their force, and impair the first article of the Bill of Rights, and other constitutional provisions. The citizens of this Commonwealth would not live under the government of equal, standing laws, of universal obligation. If the Legislature have the power to suspend the statute of limitations in favor of one individual, they may shorten the time of limitation under other circumstances, and may suspend the operation of any general law, whether statute or common law, either in favor of, or against an individual, at their discretion.

The Committee have been less inclined to hear the parties, and enquire into the evidence in this case, as requested by the representative of said John Codman, because they find, that the subject of the petition was submitted to the consideration of a joint committee of the Legislature, who fully heard the parties, and considered all their evidence and arguments, and unanimously reported, that said Vans had no legal or equitable claim against the estate of said John Codman, which report was accepted by both houses, in February, 1813—the same session in which the resolve was passed, to suspend the operation of the statutes of Limitation, referred to in the case of Holden v. James, administrator. Although this decision is not conclusive on subsequent Legislatures, it should have great influence in the case of a private claim of this nature. It
is not to be supposed that after a lapse of nineteen years, a committee can enquire into the truth of facts, under circumstances so favorable to a correct result.

For the reasons aforesaid, the committee are of opinion that the bill ought not to pass. All which is respectfully submitted by.

LEVERETT SALTONSTALL, Chairman.
Commonwealth of Massachusetts.

Reported by a Special Committee, consisting of Messrs. Robinson of Marblehead, M'Cleary of Boston, and Mason of Troy.

In the Year of Our Lord One Thousand Eight Hundred and Thirty-two.

AN ACT

To empower William Vans to prosecute his claims against the executor of John Codman, deceased.

1 Be it enacted by the Senate and House 2 of Representatives, in General Court assembled, and 3 by the authority of the same, That William Vans of 4 Boston, in the County of Suffolk be, and he hereby 5 is authorized and empowered to prosecute his 6 claims in the Judicial Courts, against the executor
and the estate of John Codman, late of Boston, de-
ceased, as fully as if the acts limiting the time with-
in which suits may be prosecuted against executors
and administrators never existed, and the said acts
are hereby suspended for this purpose, any laws, de-
cisions, precedents, customs or usages to the con-
trary notwithstanding.

**House of Representatives, Feb. 24, 1832.**
Read three times and passed to be engrossed.
Sent up for concurrence:

L. S. CUSHING, Clerk.