

MARYLAND GAZETTE.

F R I D A Y, APRIL 28, 1780.

the PEOPLE of MARYLAND.
NUMBER V.

I HAVE very briefly, and imperfectly commented on most of the principal penal laws which can affect a white person; in this paper I shall descend from the dignity of complexion, and take some notice of the ordinances framed only against those, whose misfortune it is to be black.

He that is tempted to exult in the excellence of our constitution should reflect, that slavery is a portion of one third of its subjects; I am far enough gone in the quixotism of poets, to attempt the setting them at liberty; every heart, that is not dead to the social feelings, would join with me in protecting them from a few of the rights of nature.

Can the want of education, or the having "no apprehension of future rewards and punishments," enhance the guilt of an action? or can these circumstances, render the bare attempt by a negro as criminal as the actual perpetration by a white man? If they do, an equal share of guilt must be imputed to his master, whose duty would oblige him to instruct his slaves in the leading principles of morality and religion.

The humane reader would be shocked, by reading the acts of 1759, ch. 4, and 1751, ch. 1. As our ancestors were inspired by sentiments like these, it is amazing, that the penalty of killing a negro was not commuted for a fine, and a satisfaction to the owner. The punishment of whites and blacks, for the same offence, I contend should, if possible, be equal, though good reasons might be adduced for making the former with greater severity. The obligation upon a slave to repair a dereliction of labour, would, I confess, be a punishment only to his master; branding, flogging, cropping, &c. have a considerable effect by way of example; but, instead of inspiring the offender with a resolution of amendment, they harden him for the perpetration of the most atrocious crimes. If there is an insuperable difficulty in the case, if the gardian knot must be cut, the guilt of blood must lie principally at their doors, who introduced the state of slavery, with all its concomitant horrors.

In looking over the acts of assembly, I find no law for restraining a master, that would transfer the bounds of a moderate correction, by whipping and torturing his slaves. Does not the voice of reason and nature call upon us to prevent these inhuman practices? The act of 1715, ch. 44, sect. 21, which relates to mauler and servant, should have been extended to master and negro; and, if faithfully executed by the courts, would, in a great measure, have shielded these unhappy creatures from oppression. A tyrannical overseer will pretend, that, without a strict hand, his negroes cannot be kept in obedience; but it is notorious, that the mildest master has generally the best governed slaves.

Almost all our penal acts of assembly place principals and accessories on the same footing; and the general rule of the common law is, that they shall suffer the same punishment. The rule is certainly just, with respect to accessories before the fact, between whom, and accessories after the fact, there is a most material difference. It is the weakness of compassion, an almost amiable quality of human nature, which induces a person who knows a felony to have been committed, to receive, relieve, comfort, or assist, the felon. He undoubtedly offends against public justice, but the greatest punishment he deserves is a discretionary fine and imprisonment.

In treating of penal law, it may not be improper to consider the equity of subjecting the body of a debtor to execution. Whether the man who is unhappy enough to be beyond his ability to pay, was viewed by the ancient legislators of England in the light of a criminal, I cannot determine; This part of the law is evidently contrived to favour the rich, without the least consideration for the poor.

I was told by an ingenious Dutchman, that, upon his arrival at New-York, he was struck with an inconceivable horror; upon seeing a debtor carried to prison; he was apprehensive that he had got among a people totally void of

humanity. In Germany and Holland there is no execution of the body for debt. The consequence is, that every prudent man considers, how far the person who applies for credit is entitled to it by his circumstances; and the folly of a creditor there would at least equal that of his debtor.

In the times of reputable commerce, an abolition of this part of the law would have effectually prevented long, and precarious credit, which always blunts the edge of the debtor's industry, and is extremely detrimental to trade, by obliging the merchant to fail in his remittances, or to exact an higher advance from those who are punctual in payment. If it had been a subject of discussion, at the time of entering into the general compact, the framers of a government, "inspired solely for the good of the whole," would never have permitted the existence of a law, which confers no benefit on the creditor, which deprives the community of the service of its subjects, distresses families, and infringes the dearest right of nature.

Under the former constitution, it was usual for the legislature, upon the petition of an honest debtor, to grant relief; that is, they obliged him to give up his estate, and, if a single man, to enter into bondage for five years. Of the great numbers who accepted relief upon such rigorous terms, one half perhaps had been reduced by the imprudence of youth, or the imposing arts of designing men.

Before the dissolution of that government, more liberal and humane sentiments began to prevail; their last act was "for the relief of insolvent debtors." I wish, the relief provided by that law were as general as the title. It is confined to cases where the whole debts amount not to £. 200 ster. Without the interposition of the assembly, the law will expire at the end of this session. If it is continued, I beg leave to propose the following amendment: from the word, "aforesaid," in the 5th line of the first section of the printed law, strike out the word "such," in the 30th line of the same section.

There is one part of the penal law, which it would be an insult upon common sense to attempt to defend. A man is committed upon suspicion, and, for want of bail; he submits, for several months, to the loss of liberty; he wants many of the necessaries of life, and is exposed to the merciless treatment of a brutal gaoler. He is brought forth to undergo the disgrace, and terrors of a prosecution; and, at length is acquitted, by the verdict of an impartial jury; but he must not be dismissed, before a satisfaction for fees, and his property being insufficient, he must discharge them by servitude.

There is another most intolerable grievance. A man, who was never suspected of infringing the law, has the misfortune to know something relative to a criminal transaction; a justice of the peace may demand surties for his appearance at court, and if he is unable to find them, may commit him. To remedy this evil, and to prevent a defect in justice, I propose, that the witnesses shall always enter into a recognizance, and, if the magistrate has reason to apprehend his sudden death, or removal, let him take his deposition, in presence of the party accused, to be made use of at the trial in case the witness cannot, at that time, be procured.

It was the opinion of a judge, who was an ornament to his profession, that "it were better that ninety-nine criminals should escape, than one innocent man should suffer." Here an innocent person unavoidably suffers, that a criminal may not have the remote chance of escaping. The relief, given by the act of 1752, ch. 13, is little better than a mockery. It must therefore be impugned to an unpardonable inattention in the legislature, under the former government, who had nothing to do but amend the law, that the two evils, I last mentioned, have so long existed.

I here close my remarks. The reader, who has perused them with candour and attention, will accept my unfeigned thanks. The love of truth; and the nature of my undertaking, required, that I should deliver my opinions with confidence; however, I have suppressed many observations, which might possibly admit of an ill-natured application; if never was my intention to offend; resentment and revenge were never harboured in my breast; they are sensations, I always endeavour to be free from; but, if at any time, I should be inclined to follow their suggestions, I shall adopt a more manly method, than that of injuring a character by dark hints and subtle allusions; I thank God that I am little versed in the sneaking mystery of intriguing politics.

On the various subjects I have touched, I cannot pretend to have advanced many new things; they have, notwithstanding employed, for a long time, the most intense meditation; I would not hazard a proposal to the public, before I had carefully examined all its consequences, and viewed it in every light. Perhaps the self-love, which is natural to every man, will not permit me to feel the full force of the objections, which may be urged against every one of my propositions.

If vanity had any share in prompting me to the undertaking, this single reflection might humble me to the dust. If the virtuous Sir Thomas More, the immortal Montesquieu, the amiable Beccaria, the ingenious Blackstone, have all submitted to the mortification of seeing their benevolent schemes, for the reformation of penal law, at once admired and neglected, the mildest fate I can expect is a total disregard; however, I shall enjoy one consolation in common with these illustrious persons, I have done my duty, and laboured for the general good.

A REPUBLICAN.

For the MARYLAND GAZETTE.

THE honourable the senate, having rejected the bill proposed by the house of delegates, for the confiscation of British property, originated and sent to the house of delegates a bill of which the enclosed is a full abstract. I doubt not it will attract the attention of the public, as the object of it is evidently to preserve the property of our enemies. It was rejected by the delegates without any debate, five members voting for it.

C R I T I O.

ABSTRACT of the ACT for the security of the State and the subjects thereof, and for other purposes.

P R E A M B L E.

KING and parliament of Great-Britain prosecute a cruel and unjust war, upon pretence of rebellion.

This State and subjects thereof have considerable property in Great-Britain.

Sundry persons, in Great-Britain, claim property, of considerable value, within this State, and it is right and proper that every reasonable security for the claims of this State, and the subjects thereof, be taken and retained, and also that the subjects of and residents in Great-Britain (who claim property in this State) make their election, within a reasonable time, after notice, and become subjects of this State, and amenable to its laws, or, by neglecting to make such election, relinquish all claims of right to property within this State.

E N A C T I N G C L A U S E S.

1st. Real and personal property (debts excepted) of British subjects, residents of Great-Britain, and of inhabitants of Maryland, who since August 14, 1775, withdrew from, and deserted the defence of this country, who shall not come into the State, on or before the first of May, 1781, and within 20 days thereafter, take oath of fidelity &c. shall from and immediately after said 20 days, be taken, visited in, and possessed by commissioners, to be appointed by the legislature, and held and possessed by them as a pledge and security, that justice be done by the King of Great-Britain, and his subjects, towards this State, and the subjects thereof.

2d. Commissioners to pay annually the profits of such estates into the treasury, to be applied to sink and pay such part of the new bills of credit, to be issued under resolve of congress, of the 18th of March, 1780, as may be the just proportion of this State.

3d. Such estates and property to be kept by commissioners, and the profits thereof applied, as aforesaid, until the end of the war, or until the expiration of six years, from the 18th of March,