

Art. 16. That sanguinary Laws ought to be avoided as far as it is consistent with the safety of the State; and no Law to inflict cruel and unusual pains and penalties ought to be made in any case, or at any time, hereafter.

A sentence of ten years in the penitentiary for placing a bomb, which explodes, in a dwelling house is not open to constitutional objection. *Lanasa v. State*, 109 Md. 610.

A sentence "to be whipped seven lashes" is not "a cruel and unusual" penalty within the meaning of this article. See art. 25 and notes. *Foote v. State*, 59 Md. 266.

This article referred to in construing the words "cruel and unusual punishment" in the eighth amendment of the Constitution of the United States. *Weems v. United States*, 217 U. S. 393 (dissenting opinion).

See art. 25 (D. of R.) and notes, and art. 27, sec. 17, An. Code.

Art. 17. That retrospective laws, punishing acts committed before the existence of such Laws, and by them only declared criminal are oppressive, unjust and incompatible with liberty; wherefore, no *ex post facto* Law ought to be made; nor any retrospective oath or restriction be imposed or required.

Ex post facto laws.

This article by its terms is confined to retrospective criminal laws, meaning *ex post facto* laws. The act of 1845, ch. 352, regulating the plea of usury—see art. 49, sec. 5, An. Code—held valid. Where a statute is open to the interpretation, it will be construed to operate prospectively. *Baughner v. Nelson*, 9 Gill, 303; *Wilson v. Hardesty*, 1 Md. Ch. 66; *Hagerstown v. Sehner*, 37 Md. 198. And see *Grove v. Todd*, 41 Md. 644.

The act of 1894, ch. 108, repealing and re-enacting art. 12, secs. 2 and 5, of the Code of 1888, title "Bastardy," held not to violate this article. Every law that changes a punishment and inflicts a greater punishment than the law annexed to the crime when it was committed, is *ex post facto*. *Lynn v. State*, 84 Md. 78.

An act of assembly is not invalid merely because it is retrospective or made applicable to pre-existing cases; such laws are valid unless they impair the obligation of a contract or are *ex post facto* within the meaning of the Constitution of the United States or of this article. The act of 1872, ch. 272, repealing and re-enacting art. 16, secs. 38 and 39, of the An. Code, so as to give the court the power in certain cases to prohibit a divorcee from marrying again in the lifetime of the former husband or wife, held not to be an *ex post facto* law, although it was applicable by its terms to cases instituted before the passage of said act—see notes to art. 16, secs. 38 and 39. *Elliott v. Elliott*, 38 Md. 362. And see *Baughner v. Nelson*, 9 Gill, 299; *State v. Norwood*, 12 Md. 206.

The legislature may release a penalty or forfeiture created by act of assembly for the benefit of a particular county, such releasing act is not an *ex post facto* law. *State v. B. & O. R. R. Co.*, 12 G. & J. 435.

Generally.

The legislature may not change a rule of law so as to give it a retroactive operation, since this would be to take property of one man and give it to another; the legislature may however alter and remodel rules of evidence and remedies. *Thistle v. Frostburg Coal Co.*, 10 Md. 144. And see *Baughner v. Nelson*, 9 Gill, 303; *Wilderman v. Baltimore*, 8 Md. 556.

A repealing ordinance cannot destroy or affect any right which was acquired under a prior ordinance before its repeal. *McMechan v. Baltimore*, 2 H. & J. 45.

The legislature may have the power by a retrospective statute to cure mere defects and irregularities in legal proceedings, but not to make a decree or judgment rendered without jurisdiction, valid and binding. *Willis v. Hodson*, 79 Md. 331.

The act of 1860, ch. 271, validating all marriages theretofore celebrated between persons related within certain degrees, held not to violate this article. This article does not prohibit retrospective laws in civil cases. *Harrison v. State*, 22 Md. 491. Cf. *Grove v. Todd*, 41 Md. 644.

Where a deed is defectively acknowledged, and subsequently a curative act is passed, but prior to such passage the grantor dies and his widow's dower thereby