

*property* should be punished with *infamy*? Considered in its complicated wrongs to society, it certainly deserves the severest punishment, because it makes infamous criminals out of innocent persons, and visits severe afflictions on parents, employers, family connections and others, who, in this respect, have done no wrong themselves; and thus the innocent are made to suffer for the guilty—an anomaly, which is revolting to all our notions of justice, and to all the moral and natural sympathies of mankind.

*Secondly.* As to the *remedies* for the crimes thus briefly considered; they are of two sorts. The *influence of public opinion* and *penal laws*. Penal laws, however, can never be of much utility, unless sustained and sanctioned by public opinion. Without this all-powerful adjunct, they must be comparatively unavailing, and the people of this Commonwealth must have seen, in more than one instance, how deeply our legislation has been brought to reproach from the circumstance that the principle of a law was in advance of the popular feeling. In a commonwealth, like ours, where the utmost freedom of opinion is so happily enjoyed, and where every man may freely and unrestrainedly utter and publish his thoughts, and assume the responsibility of censuring or approving the law and the legislature, a mutual relation must subsist between the popular feeling and the spirit of the laws, in order to render either effectual in the suppression of crime or the promotion of virtue. Applying this principle to the subject of lotteries, it will be seen that the statute of 1817, which provided extraordinary penalties (not less than ten nor more than twenty thousand dollars) for publishing the scheme of a lottery or selling a lottery ticket, was altogether beyond what public opinion at that time would tolerate. It was a constant complaint from the attorney and solicitor generals, as well as other prosecuting officers of the government, that the penalties were so severe and disproportionate to the offence, that no jury could be persuaded to convict the offender, and it is believed that no verdict has ever been obtained in a single prosecution under that act. Then followed the statute of 1825, which, as a consequence of the reaction produced by its predecessor, abolished all the extraordinary penalties, and fixed them on another extreme. "That statute, (it is observed by his Excellency the Governor, in his message referred to the Committee) is wholly inadequate to the purpose for which it was intended to prohibit, is a fine not exceeding one hundred dollars for each offence; so that the imposition of a fine, however small, may be a satisfaction of the forfeiture