

guished, being once drawn by the preamble, and admitted, no court could have determined in opposition to this rule, that a person who left Maryland before the declaration of independence was not a British subject, notwithstanding prior laws had considered them as subjects of this state; so that the enacting clause of your bill, compared with and explained by the preamble, would have the same effect, as if the absentees had been expressly taken in and named; therefore this class of people are determined to be British subjects, by your bill, as strongly, though indirectly, as if the same thing had been pointedly expressed in the enacting clause. This is so exceedingly clear, that we are not a little surprised at the suggestion, that your bill did not affect the question, whether these absentees were British subjects, but that the same would be determined by pre existing law, upon the same rules, without your bill, as would be done under it. The acts of our legislature, entitled, 'An act to punish certain crimes and misdemeanors, and to prevent the growth of toryism, and the act for the better security of the government, consider these people as subjects of this state; and, whatever might be the rule before these acts passed, they now make the law of the land, and cannot be departed from, without acting in such an inconsistent manner, as, we apprehend, would strike at the dignity of legislature, and involve the imputation of our considering certain persons as our subjects for the purposes of punishment and burthen, and at the same time as British subjects, forfeiting the very property burthened, upon their tenure of which, as subjects of this state, the right to punish is founded. These absentees our laws consider as subjects of this state; being subjects, a law to deprive them of their estates for their past conduct, however culpable, cannot, as we conceive, be reconciled to that constitution, which we have sworn to maintain, and will most religiously support, which reprobates in the strongest terms, and upon the best principles, every idea of a retrospective law. These people are small in number, and cannot possibly have any influence in this state; none of those who have acted against us would dare to return, and hazard a trial under our law, if notice was given them in the manner proposed by our bill; especially as even an acquittal would restore them to an estate encumbered with a treble tax, which they could only hold by taking the oath to our government, and they would be farther distinguished from the more virtuous citizens of the state, by an incapacity to elect or be elected into any office whatsoever. These burthens and restrictions, with the reflection, that their conduct would be narrowly watched, would ever prevent their being dangerous, should any of them, urged by want, or struck with penitence, come to this country under an act upon the principles of our bill. We have not the smallest attachment to the absentees, or any of them, on the contrary, we do, and shall for ever, reprobate and detest a desertion of this country and our virtuous cause, either from motives of base fear, or more criminal attachment to tyranny; but however strong our resentment may be against the vices of these men, we cannot commit a violation of our constitution to punish them, nor can we, acting under it, deny justice to the meanest wretch.

These are objections to your bill so far as it would affect the absentees; objections which, we conceive, cannot be removed, without considering the constitution and laws as things without meaning or efficacy.

The principle of your bill is also unjustifiable, in as much as it divests of their property, without notice, that class of persons, who resided, before the commencement of hostilities between these states and Great-Britain, in some of those parts of the British dominions which were not in the union with us. These persons had, fairly, legally, and for a valuable consideration, acquired private rights, under the faith of the same laws and government from which our rights of property are derived. What crime have they committed deserving of so severe a punishment? Was it criminal in them to remain in Great-Britain, or place of their nativity and long residence, at that period of time, when they could neither foresee or even apprehend a severance between these states and Great-Britain? Was it not rather their misfortune than crime, to be confined from their birth, their business, or connections, to a country ruled by a king thirsting after arbitrary power, and aided in his designs by a profligate ministry and more profligate parliament, at a time when those mad and wicked designs were carrying into execution? The difficulty and danger, real or apprehended, of quitting a country in time of war, and resorting to its enemy, must occur to every man capable of the smallest reflection. Hope too that disappointments, disgrace and defeats, would at length open the understanding of a wicked or misguided prince, and discover the folly of his projects, and incline him to restore peace to his distracted dominions, before the breach became incurable, and a coalition between the two countries impracticable, might have induced them to continue in the usual place of their residence, especially as no public order was ever issued, commanding their repairing to the state, under the penalty of forfeiting their property in it in case of disobedience. Such is the force of equity and justice, that the human heart, even in opposition to apparent interests, must silently at least approve of arguments flowing from such pure sources; natural equity dictates, that no man should be condemned and punished unheard; that every man ought to be presumed innocent, till proved guilty. These are truths, which no subtilities, no resentments, no misconceived utility, can ever eradicate from the human breast, and these are truths and maxims, applicable, as we conceive, to the present question,