

appropriating the same to the use of this state, and to repeal the act of assembly therein mentioned. ORDERED, That the committee appointed to bring in a similar bill prepare and bring in the same.

The report on the petition of Nicholas Watkins was read the second time, concurred with, and leave given to bring in a bill pursuant thereto. ORDERED, That the committee appointed on the said petition prepare and bring in the same.

The report on the petition of Henry Wine Miller was read the second time, concurred with, and leave given to bring in a bill pursuant thereto. ORDERED, That the committee appointed on the said petition prepare and bring in the same.

On motion, Leave given to bring in a bill respecting proceedings in the high court of chancery. ORDERED, That Mr. Key, Mr. Nicholson and Mr. Ridgely, be a committee to prepare and bring in the same.

The report on the petition of William Muley, and others, was read the second time, concurred with, and leave given to bring in a bill pursuant thereto. ORDERED, That the committee appointed on said petition prepare and bring in the same.

The following message being prepared, was read, agreed to, and sent to the senate, with the bill to prevent the going at large of swine within a limited distance of the city of Baltimore, and to repeal an act of assembly therein mentioned, by the clerk.

BY THE HOUSE OF DELEGATES, JANUARY 8, 1799.

GENTLEMEN OF THE SENATE,

THIS house is strongly impressed with the propriety of passing into a law the bill, entitled, An act to prevent the going at large of swine within a limited distance of the city of Baltimore, and to repeal an act of assembly therein mentioned, and have returned the same to the senate, and trust, that upon a reconsideration of the provisions contained in that bill, your honours will assent to its passage.

We have taken the liberty to assign the reasons which have influenced this house in assenting to the bill, and persuade ourselves that on consideration they will have the like effect on your honourable body.

The bill sent up for your concurrence contemplates two objects, the repeal of an act passed at last session on the same subject. It has also in view a more effectual provision for the prevention of swine going at large within certain limits of the city of Baltimore.

It will readily occur to your honours, upon adverting to the law passed at the last session, that no swine are permitted to go at large within five miles of the city of Baltimore, under the penalty of a total loss to the proprietors.

This law, therefore, being penal in its operation, and in its effects tending to deprive the citizen of his property in a summary and arbitrary manner, without notice, and destitute of even the forms of law, and calculated also to operate (as it now exists) equally on the innocent and uninformed as on the guilty, should have prescribed certain limits and boundaries of public notice; certain land marks and beacons should have been erected, known to all those on whom the act was intended to operate.

It being a favourite maxim of all free governments to have the operation of the law, as far as practicable, fixed and determinate; when regulations for this purpose are explicit, it is the duty of all strictly to conform to them, and when they are otherwise, it is the immediate duty of the legislature to ascertain and correct them; but instead of the existing law containing any certain fixed limits or outlines, the persons who are to guard against any violations of it, under the penalty of forfeiture of property, have no means of information but by resorting to certain ideal lines, not marked or traced out on a single line, tree or sapling, or discoverable in any manner in the limits of the district; and to be discovered only by resorting to mathematical calculation, and to surveyors, and that too at a very heavy expence, owing to the irregular situation of the city of Baltimore, it being by no means circular in its form. It also appears to us, that under the restrictions in the existing law, its operation will extend to the distance of at least eight miles from the city, although, in fact, the law holds out the prohibition to five miles only; for it is well known hogs and other live stock going at large in the woods, without restraint, will range and travel three or four miles in search of food, and our country has not yet attained to that state of population or improvement as to admit of universal enclosures, to separate each individual's unimproved real property.

Another objection to the continuance of the existing law arises from the impracticability of its execution, without previously fixing and making known the exact limits thereof; for what individual, on the one hand, would incur the expence of employing a surveyor to locate, mark and bound, the limits defined in the law, that he might save a few hogs yearly, or who, on the other hand, would risk the penalties of the law in undertaking to destroy his neighbour's property, without previously knowing whether the limits had been transgressed. Thus the existing law appears difficult, nay almost impracticable, in its execution, without amendments, and may eventually be considered as inoperative in its provisions, and a dead letter; and whenever such difficulties are likely to arise, good policy requires the repeal or amendment of such laws, to prevent the possibility of oppression on the one hand, and to stifle all hopes of impunity and evasion on the other.

That adequate provision should be made for preventing swine going at large within a reasonable distance of Baltimore, appears to us necessary and expedient, and for that purpose we have passed a bill, which it is conceived effectually guards against all the evils apprehended by the citizens of Baltimore city, removes the objections to the existing law, and at the same time sufficiently provides