Mr. Coates jr

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POETRY.

THE FORSAKEN.

BY N. C. BROOKS A. M.

Why don't he come? The setting sun
Is verging to the west,
The toils, the cares of day are done,
And every bounding breast
With pulse of love is beating high,
As smiles the earth, and glows the sky.

Why don't he come? The mead, the wood
Which we have wandered o'er,
A welcome wave, and every flood
Looks brighter than before,
And from her soft blue eye above
Is looking down the star of love.

Why don't he come? The sun has set,
O'er sky, and wood and grot
A solemn curtain falls, and yet,
As erst he cometh not:
And hope doth like the sun depart,
And sorrow's gloom steals o'er my heart.

Why don't he come? I've looked in vain
My shepherd to descry,
Until the winds of night complain,
And moaning wood's reply.
Sighs rend my breast, but none repress
Despair so lone and echoless

Why don't he come? Night shed her tears
And every flowret's cup,
To catch the pearly drops, appears
By sylphs hand lifted up:
My tears alas! unheeded flow,
In all the solitude of woe.

The winds—the gloom—the tears of night
Are gone and bright appear
The charms of morning but its light
Falls on a maiden's bier,
Death heard the pale forsaken sighs
And staunched the tears that dimmed her eyes.

WOMAN'S FIDELITY.

[FROM THE SPANISH.]

One eve of beauty, when the sun
Was on the streams of Guadalquiver,
To gold converting, one by one,
The ripples of the mighty river,
Beside me on the bank was seated,
A Seville girl with auburn hair,
And eyes that might the world have cheated—
A wild, bright, wicked, diamond pair!

She stooped, and wrote upon the sand,
Just as the loving sun was going,
With such a soft, small, shining hand,
I could have sworn 'twas silver flowing,
Her words were three, and not one more—
What could Diana's motto be?
The Siren wrote upon the shore—
"Death, not inconstancy!"

[FOR THE WHIG.]

THE CONVICT.

Callous indeed must be the heart that is insensible to humanity at any time or place. However great may be the errors of a man, still we cannot find it in our souls to censure or abuse the unfortunate; for happily that delicate feeling which lurks in the human breast, which is even more sensitive than we at times are willing to desire, springs into play a glow of passion, that is warm, tender and animating if exercised upon the object that calls it forth.

At twelve o'clock noon I entered one of the apartments of the Penitentiary to gratify a curiosity that probably is at best an idle one, and for which I was repaid by a sickly feeling of heart, at seeing degredation and misery indiscriminately commingled over a group of young and old—white and black. The countenance of all bespoke a conscious guilt—a mortifying humility; no beam of hope—no flash of virtue, animated their faces! but a sullen, silent gloom, distinguished all alike. Occasionally I could catch the glance of an eye that seemed to say—pity my lot! But the rigid and very admirable system of discipline prevented me from looking for a length of time at any particular convict, which indeed I frequently desired to do from feelings always present on such occasions—a desire to know the character and cause of all before one; but the sagacious keeper would invariably draw me off by some new attraction, and so alienate my mind from any particular object of which I was inquisitive to learn the particulars. Having passed through the ward, we were standing at its extreme end. Near us and apart from the crowd of others was a convict whose looks particularly drew my attention. He was a man of low stature, but exceedingly well proportioned. Occasionally he would dart a look from a full black eye that was deeply seated beneath a brow where intelligence seemed to hold her reign. His hair was light, approaching the hazel, and tastefully adjusted—he bore not the degrading and loathsome mark upon his head—the contour of which was strikingly beautiful—he was spared the locks that nature had so bountifully bestowed upon him. A smile lurked about his lips, but care had laid her impress upon his features, beneath the influence of which a smothered nobleness of mind would now and then burst out, and like the rays of the sun contending with dark clouds would it struggle for full display. Such a being could easily enlist the sympathy of a fellow being, and I frankly confess my heart beat warm and quick at his fate! I left him, determined to know his history, for I felt conscious he was immured in the dark walls of a penitentiary for no petty crime—his very looks repulsed the thought I was not long in learning all I desired to know, and will recapitulate it as briefly as possible.

Ten years ago a young man, apparently not older than twenty, was placed a prisoner at the bar of the Court of——County, charged with the crime of *murder!* After the examination of many witnesses, one was brought up leaning upon the arms of attendants, and suffering under the delicacy of the scene which a crowded Court room too commonly inspires She was a beautiful female, scarce budded into maturity, and as tender as she was sensitive. With much perturbation she proceeded to give her evidence. Many, nay all present will remember the feelings that that occasion harrowed up. My informant says, her manine screams still echo on his ear at the bare mention of the fact

Augustus, the prisoner, was of good extraction, of proud mein and haughty temper. He had long loved Clara, and with the peculiarites of a warm temperament could not suffer a rival for her hand. She returned the affections of Augustus, and he was only waiting for the arrival of her sixteenth birth-day to consummate the sum of all his earthly happiness. The eve of Clara's birth-day came at last, but the fond girl found her father objecting to her wedding, and her lover banished from the house. It is useless to dwell upon their sufferings, for language is too feeble to pourtray justly the agonies of too loving hearts ev red by the mandate of a parent merely because of an unfounded suspicion or a preference for another. Too often I will take occasion here to say, do we find parents willing to barter away the happiness of a child, for the sake of pecuniary gain! an unnatural inhuman traffick.

Augustus had for some time entrusted his messages to a friend, whom he believed strictly true and honest. At length Clara determined to leave her paternal roof, and fly with the man of her love to the bounds of the earth if necessary, and accordingly the plot was adjusted to effect her escape on the eve of her birth-day, that they might have the pleasure of fulfilling their long anticipated happiness.

Augustus was to secret himself in the house of Clara's father that night, and after all was quiet and still, they were to elope. Clara confided the secret to an old servant that nursed her since her mother's death. She was to admit a gentleman by the back stairs when he should present himself for admittance. The family had scarce retired, and Clara to prevent suspicion had caused her chamber light to be removed, and all was quiet, save the beating of her heart at the thoughts of what was plotting, and its final success, when she was startled by a pressure against the door; she instantly opened it and Augustus was received by his expectant lover—the old sentinel was dismissed with orders to admit no one else, and retire to her bed, which she did, after giving her young mistress a gentle farewell squeeze of the hand.

Midnight had thrown its repose around, and the moon just glimmered through the trees that grew near the window of Clara's chamber. The lovers afraid even to whisper, prepared in silence to effect their flight. Clara kneeled beside her bed and amidst a gush of tears offered up in silence a prayer to Heaven for what she was to do that night. She seized her lover's hand with great warmth, and as their bosoms came in contact, her's seemed to say "I trust myself to thee!" and with a burning kiss he gave assurance of his faith. Cautiously and stealthily they moved along the passage and down the steps, arriving undiscovered at the door through which she was never perhaps to return. The old door with a grating noise opened, and the lovers stepped softly into the porch which was by this time lighted by the moon beams as light as day. A figure glided across the footway and became lost to the sight of the astonished fugitives by the shadow of the trees. Clara shuddered, and shrunk closer and closer in the arms of her lover As thus they stood, the figure reappeared; approached them muffled in a cloak, and confronted them not a yard apart. Amazement shook them as they stood coiled in each others embrace. The figure unmuffling itself spoke in a deep sepulchral voice—"Langly!" "Augustus!" exclaimed fair Clara's charge, as he endeavored to unloose her arms; but quick the figure drew forth a hedious dagger which gleamed in the moon's rays, and darting upon his victim, plunged it in his throat as he caught the fainting Clara in his arms.

The wounded man struggled to the porch and audibly groaned for help. The old servant through inquisitiveness had gotten up to watch her young mistress's flight, now gave the alarm and soon the house was started from its quiet repose. Sights were procured, and all making to the garden, found the lifeless Langly, and Clara, cold and pale, in the arms of Augustus, who still supported her as he held up the bloody knife reeking with the blood of a false and ungrateful friend!

For this crime the convict was doomed to spend his life in the walls of a common prison, to atone for the blood he had shed.

S.

From the Baltimore Republican

BALTIMORE, MARCH 30, 1836.

"We're neither safety unity, nor peace,
The foundation of common good is lost;
Unholy cunning feeds upon the public weal,
And bad men fatten with the good man's labours.
Justice is lame, as well as blind, amongst us;
The Laws (corrupted to their ends that make 'em)
Serve but for instruments of some new tyranny
That every day starts up, to enslave us deeper—
All that bear this, deserve tenfold as much,
For natural justice bids us rise at once
And check the growth of these domestic spoilers'
That make us slaves, and tell us, 'tis our charter.'

ORWAY.

Messrs. Harker:—The Indemnity Bill having received the sanction of the Legislature, it might, under *ordinary* circumstances, be taken for granted, that the facts and principles contained in the memorial which has secured the passage of the Bill, are such as cannot be set aside or proven to be false and subversive of government. But this Bill has not passed under *ordinary* circumstances.—There are connected with its passage, features so exceedingly obnoxious, that no man of sound judgment, honesty, and reflection, will for a moment admit the facts, or admire the principles. I shall, therefore, instead of laying my pen aside, in submission to the expressed judgment of the Legislature, continue my remarks on Mr. Johnson's memorial, and endeavour to prove that in stating as I did in my EIGHTH LETTER, that the document referred to contains principles, subversive of the Laws of the Land, destructive to the peace of society, repugnant to common sense and common justice, I have only asserted that, which can be very readily proved, and that, which has already been acquiesced in, by the intelligence and respectability, of at least seven-eighths of the citizens of Baltimore. But before I proceed, agreeably to the course marked out in my last letter, I shall advance several distinct opinions with regard to the Indemnity Bill.

I pronounce it an *unconstitutional measure*, and therefore NOT A LAW.—On the present occasion I shall not attempt to enter a grave legal argument to prove the infallibility of this opinion but content myself with merely advancing such general observations as will meet the approbation of every man, who places a value upon common sense, or admits the use of plain reasoning.—These letters are written under an impression; that they will be extensively read, and that men of every rank in society will take an interest in what they contain. I am therefore exceedingly desirous to strip the expression of my sentiments, of every thing like unnecessary technicality, and to use only such language, as will, without offending the learned, be easily comprehended by those who have not the advantage of a classical education.—If however it should become necessary for me to establish what I now assert, by the concurrent testimony of great men, I am able to do so; I shall be sustained by the decisions of the most distinguished jurists of the United States, and the most approved opinions of the best civilians in the world

The indemnity bill is not a law, for various reasons.—Among others, I will enumerate the following: Through its medium the Legislature have assumed to themselves the power of taking the property of A and giving it to B. This is an unjustifiable exercise of such power as is not authorized by the Constitution of the State. Taxes can only be imposed to defray the expenses of government, and the Legislature have no more right to create a law compelling Captain Thomas Williams to put a portion of the remnant of his property into the pocket of Reverdy Johnson, than they have to compel the said Captain to take off his hat whenever he meets John Glenn.—The legitimate exercise of Legislative power is defined and limited by the Constituton; and whenever the Legislature take upon themselves to exercise power not given to them by the Constitution, no officer of the State, nor citizen of the commonwealth is bound to give obedience to such unauthorized act. On the contrary it is the duty of both officer and citizen to decline obedience. I am very anxious to be thoroughly understood. I do not mean by declining obedience,—that citizens are tumultuously to assemble, and under the influence of passion and exasperation, pull down houses or tar and feather obnoxious individuals. Such a course is wild, extravagant, and disgraceful, in every body of men, destructive of the ends for which society has been formed, and especially to be slamed in republicans. I merely mean that they shall respectfully decline to obey a power, the validity of which they do not acknowledge. It is probable that I shall here be asked, if the officer or the citizen are to be the judges of the constitutionality of a law—or it may be said that this doctrine naturally tends to promote an illegal *resistance* to the laws of the land. In reply to the question I answer NO, and with reference to the observation, I say, this doctrine can have *no such tendency*. Citizens or officers may *decline to obey* without involving either of the difficulties alluded to. To convey my meaning, I will give an example.

Suppose the legislature were to pass a law commanding me to clean off Mr. Johnson's pavement once a week for three years as a punishment for not protecting his property from destruction—or in the event of my not doing so to pay a certain fine. Well, I am officially made acquainted with the punishment imposed. The officer in giving me the information tells me, you are *bound* to obey. Such is the *law* of the land. It has received the sanction of a *majority* of the legislature. But, I say in reply, I will *not obey*. The legislature have not the power to make me Mr. Johnson's scavenger. It requires something more than the mere form of a law to make a law. But, says the officer, you are not to be the *judge* of the *constitutionality* of the *law*. It has been passed by the legislature. It is my duty to enforce obedience, and I expect immediate compliance. Then, say I in return, you expect more than you will receive. I look upon this measure as an unconstitutional exercise of harsh and arbitrary power—an insult to me personally, and calculated in its operation to debase and degrade the community of which I am a member. I therefore *decline obedience*, and am firmly resolved never to be made an instrument to the destruction of those inestimable blessings guaranteed to the people of Maryland by the form of government under which we live. Sir, says the officer, if you decline to clean the pavement you must pay the fine in lieu thereof. Officer, I reply, I shall do no such thing. The legislature have overstepped their authority, the measure is unconstitutional, and I will not be governed by it. Constitutionality is the essence of law. In this measure constitutionality is absent, and therefore in *disobeying* I am not resisting the *laws* of the land, for I deny that laws can be made except in pursuance of the Constitution. In this instance there has been a most palpable violation of the Constitution and in refusing obedience I am only exercising a virtuous freeman's privilege in withholding submission to an evident act of tyranny. The officer reiterates—Sir, you cannot be the judge of the constitutionality of the law—it is your duty to obey or mine to arrest you. Do as you think proper, I answer, but you shall not arrest me with my consent. The officer beckons to his assistants, they step forward and contrary to my will and judgment, I am taken into custody and lodged in a jail. What is the result? a writ of habeas corpus is sued out. I am released from imprisonment, and the matter in all its bearings, comes eventually before the superior courts of justice. There the constitutionality of the law is tested, and the citizen, in the honest and manly course he has taken, has only been the means of bringing the obnoxious measure before the proper and sufficient *judges*, who, if they are wise and just, will dispassionately decide agreeably to the legal merits of the case. This I conceive to be a fair example to prove, that in case the Legislature exercise a power *not delegated* to them, or not given by the constitution—the citizen is not only not bound to *obey*, but it is his positive duty to *refuse obedience*, and that a citizen who would, contrary to his conscience and sense of justice, give obedience to what he felt and knew to be an unconstitutional and oppressive measure, would deserve to be held up as a dishonest or mean spirited man, fit for the worst purposes of tyranny, and utterly unworthy of the blessings of freedom.

The reason which I have given to show that the Indemnity bill, although it has gone through the usual form, is not a law of the State, is plain and striking. I have said the Legislature have not the power to take the property of A, and give it to B. I now ask any man to reflect and answer to himself the plain question, whether or not in the case under consideration the Legislature does take the property of A and give it to B. The doctrine is acknowledged to be sound and incontrovertible, even under a monarchical government, then how shocking must a departure from this doctrine be to Republicans, whose pride and boast is, that they only pay taxes to *support government*, and not to contribute to the *luxury and extravagance* of an aristocracy of nobles If then the Indemnity bill has been engendered in fraud upon the rights of the people, it is tainted in its very incipiency, and as a chest deserves to be exposed and despised. If it owes its origin to the prostitution and perversion of delegated power, and a plain violation of the Constitution—it does not deserve to be respected, but every good citizen will do his utmost to prevent the accomplishment of its object.

This is but one, and the most general view of the unconstitutionality of the Indemnity Bill. I further assert and maintain that it is unconstitutional, because it is expost facto. That it is expost facto, no man understanding the meaning of the phrase can, for a moment doubt. However, that no dispute may arise about words, and that my remarks may be perfectly intelligible, I will state what I conceive to be an ex-post facto law. It is a retrospective law—in other words, it is a law made to-day for the purpose of operating upon a fact which took place yesterday. What is the reason that such laws are odious? I will answer this question as plainly as I can. The word law, signifies a rule or regulation for the government of action. The power that governs must always be the supreme power of the State. The Government therefore has the power to command the observance of that which is right or to prohibit the commission of that which is wrong.

These *commands* or *prohibitions* coming from the Supreme power, we call LAWS, and disobedience to these laws we call *crimes*.—It therefore follows that a *crime* cannot exist, antecedent to, or before the law which constitutes the *crime*. The *crime* being a disobedience to the *Law*, the *law* must come *first*, and the crime afterwards. For instance, if the Legislature pass a law *to day* declaring that the dead shall be buried in *leaden coffins*, and affix a *penalty* to the breach of this law, the man who buried his dead in a *wooden* coffin *yesterday*, shall not be compelled to pay the *penalty*. And why? Because he has not committed a breach of the law,—he had buried his dead in a *wooden* coffin *before* the law relating to *leaden* coffins existed. Would it not be the very essence of tyranny to compel the man to pay a penalty for the breach of a law which it was *impossible* for him to *break*, in as much as the law itself did not then exist? Therefore laws which operate upon facts, committed *before* such laws existed are wicked and tyranical—and inasmuch as they are made after the fact instead of going before to notify obedience, are called ex-post facto laws. Now it is as plain as that twice two is four, that the Indemnity Bill considered as a law is an ex-post facto law—every body knows that when the riots took place there existed no law to indemnify a man for property destroyed by a mob. The case of Mrs White, which has been before the Legislature ever since the year 1812, is a sufficient proof of this. The court of appeals of our own state in reference to a branch of that very case, declared that Mrs. White could only have her remedy against those who had injured her agreeably to the existing laws and accordingly successive Legislatures have uniformly refused to grant by extra legislative action the indemnity she has claimed. Even if this were not the case, the present Legislature,—and I beg the reader to particularly observe what I now state,—the very legislature which has given its sanction to the Indemnity Bill, has proved beyond all doubt that it is an ex-post facto measure

The proof is this, *that a few days previous to the passage of the indemnity bill* the legislature passed a law PROVIDING FOR INDEMNITY IN FUTURE, *thereby admitting that no such law had previously existed!* The very fact that there existed a *necessity* for a *prospective law* proves beyond dispute that the indemnity bill which followed is an expost facto measure. I therefore maintain that the indemnity bill viewed as a law, is an expost facto law. Now, what does the constitution of the U. States say on this head? It declares in the 15th sec. of the I. article, that "No State shall pass any expost facto law."

I ask then if any man will dare to tell this community that the constitution of the U. States has not been violated? Will any man maintain that the judges of our courts will or can pronounce the indemnity bill a constitutional measure? It is declared in the 2d Sec. of the VI. article of our national charter, that "the Constitution of the United States shall be the SUPREME LAW of the land, and the judges in every STATE shall be BOUND THEREBY, any thing in the Constitution or laws of any State to the CONTRARY NOTWITHSTANDING. It would therefore follow that even if ex-post facto laws were sanctioned by the Constitution of Maryland, they would be illegal, or no law, inasmuch as they would conflict with the Constitution of the United States. But the Constitution of Maryland does not run counter to the Constitution of the United States. The framers of our State Constitution and our Bill of Rights understood too well, and felt too keenly the accursed iniquity and intolerable tyranny of an ex post facto measure, not to pronounce upon it their most decided disapprobation.

The 15th Section of the Declaration of Rights of the State of Maryland, says—"That retrospective laws, punishing facts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust and incompatible with liberty, wherefore NO EXPOST FACTO LAW OUGHT TO BE MADE."—Can any thing, be more expressive, or more to the point? And again I ask, can any man maintain that the Constitution of Maryland, as well as the Constitution of the United States, has not been violated?—Does not every man who reflects for a moment feel that both have been trodden under foot? In fact, Mr. Johnson himself, in his memorial, has not dared to maintain that the granting of indemnity would be an expost facto measure. He perceived, at once, that it would not be possible to frame a law which would not partake of this character. He therefore cunningly anticipates the evil, and labors, with great difficulty, and something resembling ingenuity, to draw a distinction between CIVIL and CRIMINAL expost facto laws. But let any man examine carefully this particular part of his memorial and he will at once perceive the excellence of the poet's observation:

"Truth is a tow'ring dame—divine her air,
In native bloom she walks the world with state;
But falsehood is a meretricious fair,
Painted and mean, and shuffling in her gait."

The amount however of his exertion is, that CIVIL ex-post facto laws are constitutional,—while CRIMINAL ex-post facto laws, are not to be tolerated. Alas! that one so perfectly able to perceive the destructive consequences of this iniquitous doctrine should so far forget himself as to give his sanction to it. I solemnly declare that with the legal reputation of Reverdy Johnson there is nothing upon earth that could have induced me to have bequeathed on record to posterity an opinion which I would conceive to be so utterly derogatory to my legal character. He has however endeavored to find some countenance to this opinion, in a sentence drawn from a paragraph of Judge Story, and this able jurist is paraded forth as declaring in relation to ex-post facto laws that "The general interpretation has been, and is, that the phrase applies to acts of a criminal nature only." Now, to those who are curious as to Judge Story's opinion, I refer them to his Commentaries 3 vol. p 212, or to a note of Mr. Justice Johnson's on the case of Calder vs. Bull and wife, & if upon reading the whole of what Judge Story has advanced, they come to the conclusion that the sentence selected by Mr. Johnson is a fair representation of Story's opinion, or that he is in favor of civil ex-post facto laws, then I know nothing about the matter, or am unable to perceive the force of reasoning or to comprehend the meaning of the English language. I say that Judge Story does not give his sanction to such a doctrine, nor is he in any degree an advocate for civil ex-post facto laws. But even if he were, the innumerable decisions against him would instantly overthrow his dictum. Out of the hundreds which I might advance, I shall advance but one, it is precisely in point, and is the opinion of our much beloved and lamented Chief Justice Marshall. He says in the 6th of Cranch p 138—"An expost facto law, is one which renders an act punishable, in a manner in which it was not punishable, when it was committed.—SUCH A LAW MAY INFLICT PECUNIARY PENALTIES [illegible]

I ask every reasonable man does not this entirely settle the question as to any distinction between CIVIL and CRIMINAL ex-post facto laws. Does it not abundantly prove, as far as the most respectable testimony can prove, that such a distinction is without foundation, and absurd and ridiculous. To show that I have not made an improper use of Judge Marshall's opinion, and that he intended to convey the very meaning which I have given to it, I shall cite a passage from Chancellor Kent, on Judge Marshall's definition. He says, in the first vol. of his Commentaries, p. 382; "This definition (meaning the definition in Cranch) is distinguished for its comprehensive brevity and precision, and it extends equally to laws inflicting PERSONAL or PECUNIARY penalties, and to laws passed after the act, and affecting a person by way of punishment either in his PERSON or ESTATE." Next to Judge Marshall, Chancellor Kent is as good authority, and as much respected, as any lawyer in the United States. What then becomes of Mr. Johnson's distinction between civil and criminal ex-post facto laws? Does it require a lawyer to perceive at once that such a distinction could only have its origin in the fertility of a mind anxious to discover some pretext for a violation of the constitution—so palpable, that no man could dare to stand forward and openly avow that such a doctrine is consonant to the spirit or letter of that sacred instrument? But let us suppose that the opinions of Marshall and Kent, and a thousand other precedents were not in existence. Let us put a case that is purely of a civil ex-post facto nature, and we shall easily perceive its monstrous injustice and pernicious effect upon society. Suppose that to-day the Legislature were to pass a law making null and void all promissory notes not written upon stamped paper; can we concieve of any thing more abominable than that this law should have a retrospective action, and that the party who yesterday gave me his promissory note should take advantage of the law and step forward to-day, and tell me that he is not bound to pay me? Does not the common sense and honesty of every man revolt at the bare suggestion of a doctrine so utterly destructive of social and commercial confidence, and so plainly at variance with every thing that is legal, just and honorable? I need scarcely put the question. I am confident there is not a man who will take the trouble to reflect a moment on the subject, that will not at once conclude that this doctrine is to jurisprudence and civil institutions, what the disbelief of a God is to religion and morals. I therefore dismiss it altogether regarding it as an infamous heresy to legal science, meriting the contempt of honest men, unworthy of the notice of a lawyer, and to support which would be a black mark upon the legal character of any counsellor under heaven. If then there can be no favorable distinction taken between civil and criminal ex-post facto laws, what are we to infer? We are to infer precisely what the constitution of the United States and the constitution of Maryland have declared—that ex-post facto laws are unconstitutional and oppressive, and as the indemnity bill is undoubtedly an ex-post facto measure, it is therefore not a law of the land. It is an act passed by the legislature contrary to the will of a majority of the people, and in palpable violation of the constitution. The people therefore are not bound to obey it. Their obedience can only be given to laws that are constitutionally made. Our ancesters in forming the Declaration of Rights looking to the weakness and frailty of human nature, and contemplating a possibility of a period when intrigue and corruption might pervert the constitution, have as if under the influence of prophetic caution, solemnly declared "the doctrine of non-resistance against arbitrary power, and oppression, is absurd, slavish, and destructive of the good and happiness of mankind." I do not think that I am unreasonable in saying that the citizens of Baltimore, would manifest an approval of this "slavish" and "absurd" doctrine, if they do not at once firmly, manfully, but legally resist the unjustifiable encroachment upon their rights, so plainly attempted through the medium of this iniquitous and unconstitutional bill. Already the subject is matter of jest with our sister cities, and if we sit down tamely under a tyranny so palpably the result of arrogance and contrivance, the day is at hand when we shall be deservedly contemned and despised.

Another constitutional ground of objection to the indemnity bill, may be drawn from the supposition that the indemnity is to be paid out of the public monies. Numerous decisions established upon incontrovertible legal grounds, and well supported by common sense and the nature of things, abundantly prove that the Legislature have no right to apply the public money to private use.—This position, although a great political axiom, would take considerable explanation to bring it in its fullness immediately before the judgment. It is however only necessary to suggest it, and every man who has given the leat attention to political economy, will acknowledge that this doctrine rests upon a firm foundation. It is not consistent with the plan of these letters to enter into an argumentative detail of the the various ramifications of the positions advanced, and in the present letter, as I have already said, my principal object is, only to bring forward the great and striking land-marks or points of distinction—These are necessarily such as when presented, immediately strike the mind, and like simple problems in geometry are at once admitted or rejected. Of this kind I have advanced three positions, each of which I maintain is in itself sufficient to establish the unconstitutionality of the indemnity bill, and would, I am convinced, prevail against it in the Supreme Court of the United States. They are as follows:

First—The Legislature have no right to take the property of A and give it to B. This they do through the indemnity bill, and therefore it is unconstitutional.

Second—The Legislature have no right to pass an ex-post facto law. The indemnity bill is an ex-post facto law, and therefore it is unconstitutional.

Third—The Legislature have no right to apply the public money to private use. This it is presumed they will do through the medium of the indemnity bill, and therefore it is unconstitutional.

These are, as I conceive, three good, general, and constitutional grounds of objection,—grounds which can be beyond doubt effectually sustained. Their correctness will without hesitation, be acknowledged, by every unprejudiced lawyer,—and I am much mistaken if men of sound judgment, whatever may be their class in society, will not at once perceive their force and application. Upon their validity I willingly stake the reputation of these letters, and if they are set aside or shown to be false and sophistical I shall cheerfully confess that these writings instead of having a claim to candour and intelligence, are only remarkable for presumption and ignorance. I have now done with these objections which are of a strictly solemn or legal character. I have other objections to advance which are more of a mixed nature, and chiefly owe their strength to local or special considerations, growing out of particular facts, morality, expediency, common sense and ordinary transactions of life.

The first of these objections is the most grave, inasmuch as it is deeply imbued with a legal tinge. It is said that the auction duties of the City of Baltimore will be appropriated to the payment of the indemnity. Now I maintain that the Legislature have no more right to meddle with these auction duties than they have to order the Mayor's head to be cut off, because Mr. Johnson's furniture was destroyed.—A very little explanation will convince every man who reads it, that the City of Baltimore is justly and legally entitled not only to the $20,000 a year which have heretofore been appropriated to the cleaning of the harbour, but to the whole of the auction duties which fall but little short of $40,00 per annum, and which before very long there is every reason to suppose will be considerably larger. The charter granted to the city in the year 1796 gives to the city the absolute power to license and regulate auctions. This charter was made perpetual in the year 1796, and from that time until 1827, a period of more than THIRTY years, the city continued to exercise her chartered right and to receive, as undoubtedly entitled, the whole auction duties, In 1827, the Legislature, in its wisdom, thought proper to indulge its avarice, and as avarice, whether political or domestic, pays but little regard to laws or charters, the constitution was violated—the charter of the city unceremoniously trampled upon, and the auction duties seized and put into the State Treasury. The mayor and City Council of that day set up their objections, and went so far as to send a joint committee to Annapolis to solemnly protest against this act of public robbery; but the matter was, some how, or other fixed, the committee were told that the auction duties then only amounted to 23 or $24,000, and that twenty thousand dollars of the amount should still be appropriated to the use of the City. The consequence was that the Committee, or the Mayor and Council, did not think it worth while to go to war with the State for three or four thousand dollars, and therefore the principle was abandoned, the city was pilfered, and the citizens influenced by too tame a spirit or too much generosity, sat down and pocketed their loss and the insult together. As might naturally be expected one wrong has produced another, and the Legislature, remembering the tameness with which the citizens of Baltimore submitted to the infringement of 1827, have now determined to carry the matter out, and with as much *sang froid* as can well be conceived, extends, *sans ceremonie*, her grasping arm and clutches the remaining twenty thousand. Citizens! if you submit to it—you deserve it.

A community like an individual never unresistingly submits to one indignity without having to put up with many. Submit in silence to an undeserved box on the ear, you may next expect to have your nose pulled, and if

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