

Calvert
Papers
No. 486
1752

I think this Law not only expedient, but indeed necessary for y^e safety & good Government of the Colony; for now this disability is in truth become a privilege, & the Infamy of every Convict is a shield to protect himself & all his fraternity from the Hands of Justice. This inconvenience can never be felt in England, because Our Felons here are either dispatched by execution or removed by transportation, by w^{ch} last means they become a pernicious body in the Plantations: So that as the Law stood before this Act, if a Convict had prudence enough to make choice of proper Accomplices, he might venture to Commit the Highest Crimes with impunity.

Nor do I see that this Provision is repugnant to the true spirit of the English Laws so as to raise any serious Objection to the Passing of this Act, for besides that the Charter gives a Latitude to vary in some Cases frō y^e Laws of England by saying that y^e Laws of this Colony shall be Consentanee only, quoad fieri poterit w^{ch} leaves a Liberty in the Legislature to deviate where it shall be necessary or expedient for the Colony: I think the true intention our Law in this particular was to protect the Innocent from the danger of such Infamous Witnesses, & not to favour Convicts ag^t each other, because death being the Consequence of y^e Sentence, the Law c^d not suppose the Case to exist, & whereon the Mercy of the Crown sh^d interpose by way of Pardon the Criminal obtains a New being & the disability would be entirely removed. So that According to the nature of y^e Law the Criminal being either pardoned or executed, his Power of Testimony is either cast off by death or revived by Pardon.

Consider further whether the Practice of Admitt.^s Accomplices in England to be witnesses before Conviction does not in reason justify the propriety of this Act; For Altho Accord^s to Common Sense the Witness confessing his Guilt is equally undeserving of Credit before Conviction as he w^d be after Conviction, yet this Evidence is constantly received, because otherwise Offenders c^d not be brought to Justice. The same necessity therefore in another Country will certainly authorise the Like Practice: w^{ch} tho' it may be formally refused to the Letter of y^e English Law will be substantially agreeable to y^e spirit of it.

To the Second Law entitled An Act for y^e More effectual punishment of Negroes &c. This throughout is a very severe Law, w^{ch} however I must in the main presume necessary for y^e Well being of this Country w^{ch} is more than half peopled with Slaves, who are, I doubt, a Species of men that must be governed by fear & punishment. With regard therefore to the General provision of this Act, & the Policy of their security, I must leave that to the Legislature of Maryland who are better Judges of their government than I can be.