

matrimony, with all its consequences, or in a limited manner, or upon any terms deemed most proper, 1790, *ch. 25*; 1807, *ch. 20, 30, and 103*; 1818, *ch. 56*; or they may sanction a separation by authorizing the appointment of a trustee to take care of the estate of a fugitive convict for the benefit of his wife and children, 1821, *ch. 80*; or by making provision for carrying into effect articles of separation. *Com. Dig. Tit. Parliament, H. 3*; *Eyre v. The Countess of Shaftsbury*, 2 *P. Will.* 112; 1822, *ch. 100*.

But although children may be thus deprived of capacities which would have been incident to their legitimacy, and be bastardized, as a consequence of the divorce of their then living parents, 1 *Blac. Com.* 457; yet, in regard to a law which, without affecting a then existing contract of marriage, or which has been passed after its dissolution by death, declares the issue to be bastards, other considerations arise. Legitimacy is a legal capacity whereby property may be acquired by descent, &c., or, indeed, it may itself be regarded as a valuable kind of property, or a privilege of which the General Assembly cannot constitutionally deprive any one, since the Legislature cannot so judicially act upon the case as to deprive him of any legal capacity, privilege, or property with which he has been legally invested. 4 *Inst.* 36; *Dash v. Van Kleeck*, 7 *John. Rep.* 504. But, on the other hand, it may be admitted, that the General Assembly may, prospectively and without prejudice to the rights of others, declare a marriage to be valid, and any bastards to be legitimate, and thus confer upon such individuals a new and additional capacity, upon the same ground that they may grant to an alien a capacity to take and hold in any case which may thereafter happen in like manner as a natural born citizen. 4 *Inst.* 36; *Domat. Civil Law, part 2, b. 1, tit. 1, s. 2, art. 31*; 1784, *ch. 6*; May, 1788, *ch. 8*; November, 1788, *ch. 21*; 1807, *ch. 73*; 1808, *ch. 13*; 1814, *ch. 120*.

237 * It may also be admitted that the General Assembly may constitutionally, so that it be without prejudice to any one, confirm an ante-nuptial settlement, 1807, *ch. 5*, or cure the defects in any contracts or conveyances, so as to quiet the possessions of purchasers and others. But in doing so, they can exercise no power which has been delegated exclusively to the government of the United States, nor any power properly belonging to the judicial department, nor can they suspend the recovery of debts, or deprive any one of a privilege, or impair the obligation of contracts, or divest any right previously vested so as thereby, in effect, arbitrarily to take property from one person and give it to another. *Vanhorne's Lessee v. Dorrance*, 2 *Dall.* 304; *Calder v. Bull*, 3 *Dall.* 386; *Dartmouth College v. Woodward*, 4 *Wheat.* 518; *Owings v. Speed*, 5 *Wheat.* 420; *McCreery v. Somerville*, 9 *Wheat.* 354; *Satterlee v. Matthewson*, 2 *Peters*, 380; *Wilkinson v. Leland*, 2 *Peters*, 627; *Dash v. Van Kleeck*, 7 *John. Rep.* 477; *Enslin v. Bowman*, 6 *Binn.*