

A N
E S S A Y
O N
C R I M E S
A N D

P U N I S H M E N T S,

Tránslated from the ITALIAN;

W I T H A

C O M M E N T A R Y,

Attributed to Mons. DE VOLTAIRE.

Tránslated from the *French*.

In rebus quibuscumque difficilioribus non expectan-
dum, ut quis simul, & serat, & metat, sed præpa-
ratione opus est, ut per gradus maturescant.

BACON.

D U B L I N:

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MDCCCLXVII.

MPL

Does not the execution of this law deprive the subject of that personal liberty, so dear to mankind and to the wise legislator ; and does it not subject the innocent to all the disagreeable circumstances that should only fall on the guilty ? It certainly makes the situation of the assaulted worse, and of the assailants better, and rather encourages than prevents murder, as it requires less courage to attack armed than unarmed persons.

It is a false idea of utility, that would give to a multitude of sensible beings, that symmetry and order, which inanimate matter is alone capable of receiving ; to neglect the present, which are the only motives that act with force and constancy on the multitude, for, the more distant whose impressions are weak and transitory, unless increased by that strength of imagination, so very uncommon among mankind. Finally, that is a false idea of utility, which, sacrificing things to names, separates the public good from that of individuals.

THERE is this difference between a state of society and a state of nature, that a savage does no more mischief to another than is necessary to procure some benefit to himself ; but a man in society is sometimes tempted, from a fault in the laws, to injure another, without any prospect of advantage. The tyrant inspires his vassals with fear and servility, which rebound upon him with double

ble force, and are the cause of his torment. Fear, the more private and domestic it is, the less dangerous is it to him who makes it the instrument of his happiness; but the more it is public, and the greater number of people it affects, the greater is the probability that some mad, desperate, or designing person will seduce others to his party, by flattering expectations; and this will be the more easily accomplished, as the danger of the enterprise will be divided amongst a greater number, because the value the unhappy set upon their existence is less, as their misery is greater.

C H A P. XLI.

Of the Means of preventing Crimes.

It is better to prevent crimes, than to punish them. This is the fundamental principle of good legislation, which is the art of conducting men to the *maximum* of happiness, and to the *minimum* of misery, if we may apply this mathematical expression to the good and evil of life. But the means hitherto employed for that purpose, are generally inadequate, or contrary to the end proposed. It is impossible to reduce the tumultuous activity of mankind to absolute regularity; for, midst the various and opposite attractions of pleasure and pain, human laws are not

not sufficient entirely to prevent disorders in society. Such, however is the chimera of weak men, when invested with authority. To prohibit a number of indifferent actions, is not to prevent the crimes which they may produce, but to create new ones; it is to change at will the ideas of virtue and vice, which, at other times, we are told, are eternal and immutable. To what a situation should we be reduced, if every thing were to be forbidden that might possibly lead to a crime? We must be deprived of the use of our senses. For one motive that induces a man to commit a real crime, there are a thousand which excite him to those indifferent actions, which are called crimes by bad laws. If then, the probability that a crime will be committed be in proportion to the number of motives, to extend the sphere of crimes will be to increase that probability. The generality of laws are only exclusive privileges; the tribute of all to the advantage of a few.

WOULD you prevent crimes? Let the laws be clear and simple; let the entire force of the nation be united in their defence; let them be intended rather to favour every individual, than any particular classes of men; let the laws be feared, and the laws only. The fear of the laws is salutary, but the fear of men is a fruitful and fatal source of crimes. Men enslaved, are more voluptuous, more debauched, and more cruel than