

HAMPSHIRE GAZETTE.

WEDNESDAY, MAY 5, 1790.

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CONGRESS.

HOUSE OF REPRESENTATIVES.
FEB. 28.

IN COMMITTEE OF THE WHOLE. ON THE REPORT OF THE SECRETARY OF THE TREASURY.

MR. MADISON'S motion for a discrimination under consideration.

MR. MADISON rose, and observed, that the opponents of his proposition had imposed on its merits not only a heavy task, by the number of their objections, but a delicate one by the nature of some of them. It had been arraigned as embarrassing measures which ought to be facilitated, and producing difficulties which might end in disagreeable consequences. The gentleman, whom he respected, had endeavored to bring more, in the present case, than his endeavoring to support his own was a right which he could not be expected to concede. In exercising it he had aimed to maintain that moderation and liberality which were due to the greatness of the subject before the committee. He felt a pleasure in acknowledging, at the like spirit had in general directed the arguments on the other side. Freedifficulties, thus conducted, were not only favourable to a right decision, but to cheerful acquiescence of the mistaken opponents of it. They might have the further advantage of recommending the result to the public, by fully explaining the grounds of it. If the pretensions of a numerous and censorious class of citizens be not well founded, or not to be applied with, let them feel that this is the way to prevent and under their disappointment, such a proof that they have not been overlooked by their country.

He proceeded to view the grounds on which the proposition had been combated—which, he said, he thought without either following those who had wandered on the field of fair argument, or avoiding those who adapted within its limits.

It could not have escaped the committee, that the gentlemen to whom he was opposed, had reasoned on his momentous question, as on an ordinary case in a court of law—that they had equally strained all the axioms that favour the purchasing, or be adverse to the original holder—and that they had dwelt with equal pleasure on every circumstance which could brighten the pretensions of the former, or discredit those of the latter. He had not himself attempted, nor did he mean to under value the pretensions of the actual holders—in stating them he had even said as strong terms as they themselves could have dictated—but he had a certain point he could not go. He must reserve every sentiment which he had hitherto cherished, before his compliance could admit that America might erect the monuments of her gratitude, not to those who saved her liberties, but to those who had enriched themselves in her funds.

That he wished was, that the claims of the original holders, not less than those of the actual holders, should be fully examined and justly decided. They had been validated by nothing yet argued. A debt was fairly contracted—according to justice and good faith, it ought to have been paid in gold or silver, and not in depreciated paper. Was this paper equal in value to gold or silver? No—it was worth in the market, which the argument for the purchasing holders makes the criterion, no more than one eighth, or one twentieth of that value. Was this depreciated paper freely accepted? No—the government offered that or nothing. The relation of the individual to the government, forced, not a free one. The same degree of constraint would violate a transaction between man and man, before any court of equity on the face of the thing. There are even cases where consent cannot be pretended—where the property of the planter or farmer has been taken at the point of the bayonet, and a certificate presented in the same manner. But why did the creditors part with their acknowledgment of the debt? In some instances from necessity—in others from a well understood distrust of the public. Whether from one or another they had been injured—they had suffered loss through the default of the debtor, and the debtor cannot, in justice or honor take advantage of the default.

Here then was a debt acknowledged to have been made, and which was never discharged, because the payment was forced, and defective. The balance consequently in Bill duty, and is of as sacred a nature as the claims of the purchasing holders can be—and if both are not to be paid in the whole, is equally entitled to payment in part.

He begged gentlemen would not yield too readily to the artificial notions of forensic reasoning—that they would consider not the form, but the substance—the letter, but the equity—not the bark, but the pith of the business. It was a great and an extraordinary case. It ought to be decided on the great and fundamental principles of justice. He had been animated upon, for appealing to the heart as well as the head. He would he bold, nevertheless, to repeat, that, in great and unusual questions of morality, the heart is the best guide.

It had been said, by a member from Massachusetts, that the proposition was founded on a new principle in Congress. If the present Congress be meant, that is not strange, for Congress itself is new. If the former Congress be meant, it is not true, for the principle is found in an act which has been already cited. After the pay of the army had during the war, been nominally and legally discharged in depreciated paper, the loss was made up to the full rate.

It had been said, by a member from New York, that the case was not parallel, there being no third party like the present holder of certificates. This objection could not be valid. The government paid ten dollars, worth in fact but one, in a false—what officer was the original holder. The soldier assigned it to a citizen. The citizen then became the actual holder. What was the event? The loss of the original holder was repaired after the actual holder had been settled with according to the highest market value of this paper.

He did not mean, however, to decide on the whole merits of this transaction, or to contend for a similarity, in all respects, between the two kinds of paper. One material difference was that the bills of credit, by frequent transfers, and by dividing the change of value among a great number of hands, rendered the effect of less consequence to individuals, and less sensible to the public mind. But this difference, whatever force it might give to the claims of the purchasing holders or certificatees, could diminish nothing from the claims of the original holders who had assigned them.

It had been said by another member from Massachusetts, that the old government did every thing in its power. It made requisitions, used exhortations, and in every respect discharged its duty—but it was to be remembered, that the debt was not due from the government, but the United States. An attorney with full powers to form, without the means to fulfil engagements, could never by his inefficient tho' honest efforts exonerate his principal.

He had been repeatedly reminded of the address of Congress in 1783, which rejected a discrimination between original and purchasing holders. At that period the certificates to the army, and citizens at large, had not been issued. The transfers were confined to loan office certificates, were not numerous, and had been great parts made with little loss to the original creditor. At present the transfers extend to a vast proportion of the whole debt, and the loss to the original holders has been immense. The injustice which has taken place has been enormous and flagrant, and makes redress a great national object. This change of circumstances destroys the argument from the act of Congress referred to—but if implicit regard is to be paid to the doctrines of that act, any modification of the interest of the debt will be as inadmissible as a modification of the principal.

It had been said, that if the losses of the original creditors are intitled to repayment, Congress ought to repair those who suffered loss of paper money, from the ravages of the war, and from the act bearing claims not produced within a limited time. As to the paper money, either the law is applicable, or it is not—if not applicable, the argument falls—otherwise, either the depreciated certificates ought to be liquidated by a like scale, as was applied to the depreciated money, of the army, even if the whole mass of it was still in circulation, ought now to be literally redeemed like the certificates. Leaving the gentleman to make his own choice out of these dilemmas, he would only add, himself, that if there were no other difference between the cases, the manifest impossibility of redressing the one, and the practicability of redressing the other, was a sufficient answer to the objection.

With respect to the houses burnt and other devastations of war, it was taught by the writers on the law of nations, that they were to be numbered among the inevitable calamities of mankind. Still, however, a government owed them every alleviation which it could conveniently afford—but no authority could be found that puts on the same footing with those calamities, such as proceed from a failure to fulfill the direct and express obligations of the public. The just claims barred by the act of limitation, were, in his opinion, clearly entitled to redress. That act was highly objectionable. The public which was interested in shortening the term, undertook to decide that no claim, however just should be admitted, if not presented within a nine months. The act made none of the exceptions usual in such acts, and it was in view of the moral duty of the nation, in many instances it had been absolutely impossible for the persons injured to know of its regulation. Some of these instances were within his own knowledge. To limit the duration of a law to a period within which it could not possibly be promulgated, and then take advantage of the impossibility, would be imitating the Roman tyrant, who refused to give credit to high that they could not be read, and then punished the people for not obeying them.

It had been said, that if the purchased certificates were funded at the rate proposed, they would fall in the market, and the holders be injured. It was pretty certain that the greater part, at least, would be gainers. He believed that the highest market rate, especially with the arrears of interest incorporated, well funded at 6 per cent. would prevent every loss that could justify complaint.

But, however, he remained, had themselves made a difference between the value of the foreign and domestic debt; they would therefore the less complain of a difference by the government here. It was his opinion that the terms stated in the proposition, would yield a greater profit to the foreign purchasers than they could have got for their money advanced by them in any of the funds of Europe.

The proposition had been charged with robbing one set of men to pay another. If there were robbery in the case, it had been committed on the original creditors. But, to speak more accurately, as well as more moderately, the proposition would do no more than withhold a part from each of two creditors, where both were not to be paid the whole.

A member from New York had asked whether an original creditor, who had assigned his certificate, could in conscience accept a substitution in the manner proposed? He could not deny that assignments might have been made with such explanations, or under such circumstances, as would have that effect. But in general the assignments had been made with reference merely to the market value, and the uncertainty of the steps that might be taken by the government. The bulk of the creditors had assigned under circumstances from which no scruples could arise. In all cases where a scruple existed, the benefit of the provision might be removed. He would in turn ask the gentlemen, whether there was not more room to apprehend that the present holder, who has his certificate of a distressed and meritorious fellow-citizen, for one eighth or tenth of its ultimate value, might not feel some remorse in retaining so unconditional an advantage?

Similar propositions; it was said, had been read and rejected in the state legislatures. This was not fact. The propositions made in the state legislatures were not intended to do justice to the injured, but to seize a profit to the public.

But no petitions for redress had come from the sufferers. Was merit then to be the less regarded because it was modest? Perhaps; however, another explanation ought to be given. Many of the sufferers were poor and unprotected. The mode of another description were so different, that their interests and efforts could not be brought together. The case of the purchasing holders was very different.

The constitutionality of the proposition had been drawn into question: He asked whether words could be devised that would place the new government more precisely in the same relation to the real creditors with the old? The power was the same; the objection was the same; the means only were varied.

An objection had been drawn from the strict prohibition of paper money laws. That prohibition is relative to criminal, not civil cases. The constitution itself requires this definition, by adding to a like restriction of the states, an express one against retrospective laws of a civil nature.

It had been said that foreigners had been led to purchase, by their faith in the article of the condition relating to the public debts. He would answer the objection by a single fact; foreigners had shown by the market price in Europe, that they trusted the nature of the foreign debt more under the old government, than the nature of the domestic debt under the new government.

Objections to the measure had been drawn from its supposed tendency to impose public credit. He thought it, on the contrary, perfectly consistent with the establishment of public credit. It was in vain to say that the government ought never to revise measures once decided. Great caution on this head ought, no doubt, to be observed; but there were situations in which, without some legislative interposition, the first principles of justice, and the very ends of Civil Society, would be frustrated. The gentlemen themselves had been compelled to make exceptions to the general doctrine—they would probably make more before the business was at an end.

laden on board the ship or vessel so named in the manifest, and in the presence of the inspector, whose duty it shall be to attend for that purpose; and after the said articles shall be laden as aforesaid, the inspector shall certify the same on the manifest and deliver it to the exporter or exporters, who shall go to the office of the Collector of excise, or his deputy, and take and subscribe the following oath or affirmation; which oath or affirmation shall be indorsed on the manifest, by the said Collector or his deputy, and left in the office, viz.

I do solemnly swear (or affirm) that the articles herein manifested for exportation, are really and truly intended to be exported without the limits of this State, not to be unshipped from on board of the said ship or vessel, or related in any other part of this State.

So help me GOD.

And the master of the ship or vessel, shall take and subscribe the following oath or affirmation, which shall be indorsed on the manifest as aforesaid, viz.

I do solemnly swear (or affirm) that I will not reland the articles herein manifested, in any port or place within this Commonwealth, or knowingly suffer the same to be done in any way whatever, to defraud the public Revenue.

Which oath the said Collector or Deputy is hereby empowered and directed to administer.

And the inspector shall receive for each cask and case, box, chest and other package by him so inspected and branded or marked, three pence, to be paid by the exporter—and if the exporter, who shall have taken and subscribed the oath aforesaid, imported or manufactured the said articles, the Collector shall give him a certificate to clear him of the excise thereon. And if he purchased them of any licensed or permitted person, the collector shall give him a certificate to clear such licensed or permitted person: and each certificate shall have reference to the manifest in which the articles so cleared of excise are contained.

And if further enacted, That if any of the said articles, after being manifested, be shipped for exportation, shall be unshipped for any other use, within the limits of this State, or shall be re-landed within the same, from on board the ship or vessel where in the same shall have been laden for exportation (unless in case of necessity or distress to save the ship and goods from perishing, which shall be immediately made known to the Collector and Inspector of excise, refusing at the port nearest to which such ship or vessel shall be at the time such necessity or distress shall arise) then the excise articles so unshipped, together with the casks and cases, boxes, chests and other packages containing the same, shall be forfeited, and may be seized by any Collector of excise, Deputy or Inspector.

Be it further enacted, That all excise articles exported from this State, by land, shall be free of excise on the following conditions, to-wit:—The exporter or exporters shall make out an invoice of said articles, agreeably to the following form, (and the same shall be subscribed by himself and by the carrier, or person who is to convey said articles out of this State) viz.

Commonwealth of Massachusetts.

County of _____ An invoice of excise articles intended for exportation to the State of _____

One cask (or case) containing _____ purchased of _____

One cask (or case) containing _____ purchased of _____

A. B. Exporter.
C. D. Carrier.

And the said exporter or exporters, and the carrier or carriers shall take and subscribe the following oath before a Collector of excise or his deputy, or before some Justice of the Peace, in the county where said articles were bought or received, viz.

I do swear, (or affirm) that the articles herein invoiced for exportation, are really and truly intended to be exported, without the limits of this State for consumption, and that they shall be conveyed whole and entire to the State within mentioned.

So help me GOD.

Which oath shall be indorsed on the invoice, and certified by the person administering the same. And when the Collector shall receive an invoice of exported articles so authenticated, he shall give certificates to clear the excise, as directed for articles exported by water. And the exporter shall pay one shilling to the person that indorses, administers and certifies the oath aforesaid.

And be it enacted, That the several Collectors be authorized and directed in settling all excise accounts, to allow a deduction of ten per centum on all monies for the excise on liquors and brown sugars—and also to allow to all sugar boilers or refiners of sugars, the duty on all such sugars, as shall be by them refined and manufactured into loaf sugar; provided the said sugar refiners shall make oath, to the quantity of brown sugars in quantity refined, and refined by them, when they settle their excise accounts.

Be it enacted, That the Comptroller General shall be allowed, in full for his services, one per centum, on all monies paid into the Treasury in pursuance of this act; to each Collector there shall be paid one shilling for a bond & permit, by the person permitted to fill; & there shall also be allowed to each collector, on all the monies that shall be by him collected, and paid into the public Treasury as follows, viz.—To the Collector in the county of Suffolk, two per centum; to each Collector in the counties of Barnstable, York, Cumberland, Lincoln and Berkshire, four per centum—to each Collector in the other counties three per centum. And each inspector shall receive one penny for every gross hundred weight; and four pence for each hundred gallons of ce-

lified articles, contained in the manifests which he shall receive from any importer according to this act; and in the same proportion for a larger or smaller quantity, to be paid by the Collector of the county or district, who shall take a receipt therefor, and the same shall be allowed by the Comptroller General in the settlement of his accounts.

Be it enacted, That the justice of all seizures, made by virtue of this act, shall be heard, tried and adjudged and determined in the Court of Common Pleas of the county where the seizure shall be made; and a libel to be filed by the Collector of the county or district, and notice, being given thereof in two of the public News Papers, printed at the place where the seizure shall have been made, fourteen days before the time of trial; and this shall be considered as a sufficient notification to all persons concerned; and the proceeds of such articles, if adjudged forfeit, shall ensue after payment of costs, and excise duties, to the informer and seizing party equally. And in case a claimant appears, and the articles are condemned, he shall pay the costs of Court, and either party shall have a right of appeal to the Supreme Judicial Court.

Be it enacted, That in all trials of seizures, made by virtue of this act, the deposition of witnesses, taken in the same manner and for the same causes, as in the courts of law, in civil actions, between party and party shall be admitted as evidence.

Be it enacted, That all fines and penalties, incurred by any breach of this act, shall be for the first and second offence, not more than five dollars, and for the third offence, not more than ten dollars, and in case a claimant appears, and the articles are condemned, he shall pay the costs of Court, and either party shall have a right of appeal to the Supreme Judicial Court.

Be it further enacted, That each Collector or Sheriff, shall have power and authority to report to any Deputy as he shall find necessary, for whose conduct he shall be answerable; and in case any vacancies shall happen in the offices of collectors, in the records of the General Court; His Excellency the Governor of this Commonwealth, by and with the advice and consent of Council, is hereby authorized and empowered to fill the same, and the Collector or Collectors so appointed by the Governor, shall receive in office until the end of the next ensuing session of the General Court.

Be it enacted, That the Collectors of Excise in the several Counties, shall deliver over to their successors in office, on demand, all official books, obligations, defaults and papers whatever.

Be it enacted, That all laws heretofore made, respecting duties of Excise, the duties of the several Officers therein named, and the fees and commissions therein named, be and they are hereby declared null and void, from and after the first day of May next.

Provided nevertheless, That the said laws shall continue in force so far as to enable the Collector respectively to act, to prosecute for all offences which are or shall be committed against the aforesaid acts, before the said first day of May next; and so far as to enable said accounts up to the same days, agreeably to said acts.

And provided also, That all acts heretofore made for imposing duties on certain papers, commissions and instruments, and all acts in addition thereto, which are now in force, shall continue and be in full force and virtue, any thing in this act to the contrary notwithstanding.

And be it enacted, That all monies paid into the public Treasury, in pursuance of this act, be hereby appropriated to the payment of the interest of the consolidated debt of the Commonwealth—and the Treasurer is hereby directed to pay the same in equal proportions, to the public Creditors.

In the House of Representatives, March 3, 1790.

This Bill having three several readings, passed to be enacted.

DAVID COBB, Speaker.
In Senate, March 3, 1790.
This Bill having had two several readings, passed to be enacted.
SAMUEL PHILLIPS, jun. President.
Approved—
JOHN HANCOCK.
True copy—Attest
JOHN AVERY, jun. Secretary.

HAMPSHIRE II.

AT the Court of General Sessions of the Peace, holden at Springfield, in and for the County of Hampshire, on the 2nd Tuesday of March, by adjournment from the 2d Tuesday of February, A. D. 1790.

The Justices of the said Court having considered several Petries within the said County, DO ORDER, That the fare of all the ferries across Connecticut River, in a single Fair County, be as follows, viz.

Man and Horse	2 Coppers
Chaise and one Horse	3d.
Chaise or Sley and 2 Horses	6d.
Wagon and 2 Horses	1s.
Cart and Team, or Wagon and 4 Horses.	1/3
Footman	1d.
Man and Horse	2d.
Chaise and 1 Horse	3d.
Chaise or Sley and 2 Horses	6d.
Team	1/2

Copy of Record—Attest
ROBERT BRECK, Clerk.