

The Gazette.

PHILADELPHIA,

THURSDAY EVENING, DECEMBER 14,

For the Gazette of the UNITED STATES

MR. FENNO,

At the table of a friend a few days ago, when the subject of the French spoliations was a topic of conversation, a gentleman present strenuously advocated the arming our merchant vessels, and at length declared in the most zealous and warm manner, that "he would arm his ships and they should fight their way"; that he "would do the same against any nation, being one of the memorialists to Congress (when Great-Britain after the same part) recommending hostilities being commenced against her" by at being asked "if he did not think it fortunate that Congress did not adopt the measure at that time?" he ingeniously confessed he did and that their wisdom was evident by the event.

This subject being now before the house of representatives and a bill about to be introduced, I cannot refrain from offering a few thoughts on the occasion.

It is generally considered that every merchant has a right to adventure his property as he thinks fit, and if exposed to unjust hazard to defend it; but though this is not now intended to be denied, it must be equally admitted that he has no right to hazard the property, or compromise the peace of others, or of his country. The unauthorized act of an individual, and the orders or sanction of a nation, are to be considered differently.

Before those difficulties of which we complain, our produce was abundant and therefore low in all the West-India islands (the chief markets for its sale); now it is not so plenty, the supplies are more uncertain and precarious, and prices consequently and naturally higher, augmented in greater proportion than the difference of insurance. Who pays this increase of price? is it not the consumer? certainly it is—every man who eats bread in the West-Indies, or requires a single or a board contributes to pay for the insurance of our ships and cargoes. It is evidently and unquestionably the interest of those who eat the most of it to guard and protect this commerce, and thereby lessen the danger to which their necessities of life are exposed.

Is there any price to which the chief articles of our export can be raised during war time that will prevent their being demanded and consumed in the islands? every man who has been there, will say no—they cannot get them through any other channel, and cannot do without them; but it is said that every vessel takes in so much loss to the country, which is conceived to be a mistake, except when uninsured; and if imprudent men, urged by too great an avidity for gain are thereby disappointed, it is not the interception of our commerce they are to complain of; that opinion however is right as to vessels that founder or are wrecked, whether insured or not; the difference is material between the two positions, and it is necessary to be justly comprehended in order to a true judgment or proper inference.

If four vessels be insured to an island and back at 30 per cent. and one is taken, the owners of those that arrive get a greater sum for their cargoes, and sufficient to pay for the cost, freight and premium of insurance, which they bring home to do it with, and the underwriters are enabled to pay the loss of the one taken by the premium on those that arrived—it is otherwise when a vessel is wrecked or founders—then it is a national loss.

But will arming our vessels tend to reduce premiums of insurance? it is conceived not, for the French will add strength to their cruisers sufficient to contend for prize money and plunder; and if premiums are lowered, will more of our flour, fish, bread, rice, or provisions of any sort be eaten, or will they bring better prices or leave so good a profit? this applies equally to the European trade, the articles of coffee and sugar which we import and reship are sent to market loaded with every additional expence which the danger and difficulty of procuring and conveying thither occasions; what else has raised the price of them in all the markets of Europe? What say secret mercantile letters of advice? Send coffee, sugars, tobacco, &c. the prices will bear even the high premiums of insurance and freight.

Now Mr. Fenno, I think with my table companion, that it was fortunate we did not arm on a former occasion, and I am not less certain we should avoid, at least postpone it now, rather adopting the plan pointed out in my last, or something free from the spilling of blood, which once begun will not easily be stopped—while it closes the door of reparation for the past, without even a hope of benefit for the future.

A FRIEND TO LAWS & FREEDOM.

Dec. 13th.

From the (LONDON) COURIER.

Mrs. NESBITT.

This celebrated woman has become the topic of universal conversation, from the mention which Citizen Noel makes of her transactions in Germany; and she is likely to suffer a great deal of impertinent slander on account of the allusion to her name. It certainly is no discredit to the Sex, that an accomplished woman is capable of playing a part so conspicuous and interesting to the fate of nations, as that which Mrs. Nesbitt has lately performed. During the last twenty years we will venture to say that no just reproach can be thrown on her moral conduct. The allusions made to her acquaintance with Mr. Rose are illiberal. He

The London Papers have inserted the letter here alluded to, as being written by Citizen Noel the French Ambassador at this time; whereas it is an intercepted letter, written by some person employed by the coalfield Powers, and which, falling into the hands of the Abbé Florin, was sent by him to the Minister of Police at Paris.

intimacy with many of the most distinguished characters of the age, with Lord Thurlow and others, was no other than the society of kindred minds. An intelligent woman in the decline of years, possessing the charms of conversation, unobscured by prudery, and endowed with elegant talents improved by a knowledge of the world, drew around her a select circle of friends, and made her retirement at Norwood desirable to the Politician and the Scholar, from its intellectual and unembarrassed politics. We abhor the idea of pursuing political hostilities into private life; we sincerely believe that Mr. Rose cultivated the acquaintance of Mrs. Nesbitt from the attraction of her mind; and he introduced his young family to her house, that they might form their manners under so perfect a model.

Such has been the situation of Mrs. Nesbitt for the last twenty years. With an independent fortune of between 2 and 3000l. a year, debared in a great degree from the female world by the early events of her history, surrounded by men of the first distinction, it was no wonder that a woman so endowed, and so successful, should be induced to turn her talents into political intrigue. Her marriage a-la-main gauche with a German Prince introduced her to the best society at the Courts of Germany; and in all the diplomatic circles she was considered as a woman of infinite address and of profound discernment. Our readers are not ignorant of the nature of a German marriage a-la-main gauche. The pride of royalty will not permit a Prince to marry a woman of inferior rank other ways than with the left hand. This, without elevating the lady to the Blood Royal, preserves her character unstained, and she is received into society with respect. The connections that she formed in the Empire and Switzerland, her knowledge of the languages, the symmetry of her person which made it easy for her to assume the male habit, and the confidence reposed in her by Ministers, pointed her out as a proper agent; and on the 5th of August 1795 she left England, and has ever since resided in various parts of the Continent. It is not easy to develop the course she has pursued; but until it shall be declared infamous for Courts to employ secret agents, it surely cannot be imputed to her as a crime that her accomplishments entitled her to the appointment.

We know that public curiosity will not be satisfied until we shall tear off the mask from the early periods of her history—and yet nothing can be more safe and detestable in Morality than such an exposure. Let the generosity of the sex decide upon this question. If youthful frailty cannot be atoned for by years of honourable life—if no shade is to be cast over the errors of an inexperienced and a deluded heart, but the severity of virtue is to perpetuate with eternal exclusion the female who has once erred, what a horrible tyranny is that of the Public Tribunal! But Gallantry, and the cause of Virtue itself, join in the rescue of the Sex; and only vicious malignity, or horrid design, would reveal the memory of repentant error. Mrs. Nesbitt has had to combat through life with the prejudice which her first connections excited; and the woman whom the dreadful pen of Junius consigned to an immortality of disgrace, could only rise superior to the memorial by extraordinary exertion—yet this she has effected. Notwithstanding the recorded anecdote of her marriage with Mr. Nesbitt, and the miscellany of her life, she has acquired an elevation in life which she has preserved with dignity because she has acted with moderation. She has used her influence with the great, in favor of the unfortunate; and many deserving men owe their present situations in public life to the patronage of this Lady.

STATE PAPER.

Decree of his catholic majesty, preferring regulations to be observed in the condemnation of prizes brought into Spanish harbors:

"The king being desirous, that, in trials relative to prizes, all doubts should be removed which may occasion loss and delays, to the prejudice of persons interested, or give rise to difficulties with other courts—The Prince of peace, our first secretary of State has proposed to us what appeared to him a proper remedy. Agreeably to his proposition, and after having consulted our Supreme council of war, we have passed the following decree:

Art. 1. The immunity of the coasts of our dominions shall not be marked, as heretofore, by the doubtful and uncertain reach of cannon, but by the distance of two miles of 950 toises each.

2. Prizes made within the said two miles shall be tried according to the usual and established forms, before the tribunals in which the governors and commandants of our ports preside, to whom we give this jurisdiction.

3. No prize made within the said limits shall be considered legal, unless it be taken from a power with whom we are at war—then there shall be taken, merely for form's sake, a process verbal in the port into which the prize shall be brought.

4. Prizes taken beyond the said distance shall be considered as made on the high sea, and judged by the tribunal of the captor.

5. Prizes made on the high seas, and brought into the ports of our dominions, cannot be sold if they consist of prohibited merchandise; but if they are not of this description the sale shall be permitted upon paying the legal duties.

6. When the prizes made without the territorial distance shall be carried into our ports, a simple process verbal shall be taken of the capture by the agents of the captor, and the governor of the port; so that the persons interested may, notwithstanding these proceedings, have recourse to the proper tribunal.

7. If any neutral vessel which shall be taken without the territorial distance, and brought into our ports, have Spanish prop-

erty on board, the whole prize shall be tried by our tribunals, if the Spanish property amount to one half of the cargo; but if it is not equal to one half the value of the cargo the prize shall be tried by the tribunal of the captor.

8. If neutral vessels taken without the territorial distance, and brought into our ports, contain Spanish property not amounting to one half the cargo, they cannot be sold as if they belonged to enemies.

"We therefore enjoin all our councils, chancelleries, audiences and all the tribunals of our kingdom and Seignories, &c. to conform hereto.

"Done at Aranjuez, 14th June, 1797."

C O N G R E S S.

HOUSE OF REPRESENTATIVES.

TUESDAY—DECEMBER 12.

Debate on a Motion for suspending the operation of an Act of Limitation.

The house having resolved itself into a committee of the whole on the subject, Mr. Dent in the chair, the following report was read:

The committee of claims, who were "instructed to enquire into, and report on the expediency or in expediency of designating certain claims against the United States, to be excepted from the operation of the acts of limitation,"—Report

THAT in obedience to the orders of the house, they have made all the enquiries which to them appear necessary; that they have attentively and deliberately considered the subject referred to them, and are of opinion that it would not be expedient to designate any species of claims against the United States, which are now affected by the acts of limitation, to be excepted from the operation of those acts.

In considering this subject, a review of the situation of the United States, as respects their finances, during the period when most of the demands originated, was requisite.—It was also necessary to ascertain what measures had been adopted by congress, both under the old and under the present government, to bring all the demands against the States, to a liquidation and settlement.

It will be recollected, that at the commencement of the war, the United States were destitute of money; and during a long period of years afterwards, were obliged to rely principally on credit for carrying on all their important operations.

Having, at that time, no settled national government, a regular system for conducting public business, especially money transactions, depending on credit, was not to be expected.

Great numbers of individuals were necessarily invested with the powers of binding the public by their contracts. Almost every officer of the army, whether in the commissary's department, or otherwise, in different stages of the war, had it in their power to contract debts, legally or equitably binding upon the United States. We find congress, at various times, during the war endeavoring to make arrangements which should prevent an undue use of the powers vested in individuals, and the dangerous consequences to which the government was thereby necessarily exposed. The acts of the 5th of March, 1779, and of the 23d of August, 1780, were calculated to limit the public responsibility in such cases. After the peace, and under the old government, periods were preferred, within which claims of certain descriptions, and finally all unliquidated claims were to be exhibited for settlement, or to be forever thereafter barred.

It must be acknowledged by all, that during those periods, every provision which could rationally have been expected, was made for the accommodation of individuals having claims against the public, to enable them to obtain proper settlements of their demands. The journals of congress under the confederation will abundantly justify this remark.

Commissioners were appointed, with special or general powers, to settle the claims of individuals in all the departments; and in every instance, the powers given were plenary and explicit. Sufficient time was given for every one to obtain information, and pursue his remedy, and ample opportunity was given for all to substantiate their claims, or, at least, to present abstracts of them, which would have prevented their being foreclosed by the acts designed eventually to operate upon them. The cases cannot be numerous, in which the want of opportunity to bring forward claims, can be justly pleaded as an excuse for the omission.

By the act of the 17th of March, 1785, all persons having unliquidated claims against the United States were required, within twelve months, to exhibit particular abstracts of such claims, to some of the commissioners in the state in which they respectively resided, who were sent and empowered to settle accounts against the United States, under the penalty or condition, that accounts not so presented, should be thereafter settled only at the Treasury.

By another act of Congress, of the same year, viz. November 2, 1785, all persons having claims for services performed in the military department, were directed to exhibit the same for liquidation, to the commissioners of army accounts, on or before the first day of August, then ensuing. By that act it was expressly resolved, that all claims, under the description above mentioned, which might be exhibited after that period, should be forever thereafter precluded from adjustment and allowance.

And it was provided, by the act of July 23, 1787, that all persons having unliquidated claims against the United States, pertaining to the late commissaries, quarter masters, hospital, clothiers or marine department, should exhibit particular abstracts of such claims, to the proper commissioner appointed to settle the accounts of those de-

partments, within eight months from the date of the said act; and all persons having other unliquidated claims against the United States, were to exhibit particular abstracts thereof to the Comptroller of the Treasury of the United States, within one year from the date thereof; and all accounts not exhibited as aforesaid, were to be precluded from settlement or allowance.

These regulations were adopted by Congress, under the old government. Great care was taken to have them extensively published, so that every individual, who was interested, might be informed of their existence and operation.

Under the present constitution, there has not been wanting a disposition to relieve certain individuals whose claims were considered as peculiarly meritorious, which had been affected by the acts above recited.

With this view, in March 1792, two several acts of Congress were passed, suspending, for two years, the operation of the resolutions of Congress, of November 2d, 1785, and July 27th, 1787, so far as they had barred or might be construed to bar the claims of the widow or orphans of any officer of the late army, to the seven years half pay of such officer; or the claims of any officer, soldier, artificer, sailor, and marine, of the army of the United States, for personal services rendered to the United States, in the military or naval departments.

In consequence of these suspensions, many claims were exhibited and allowed against the government. There is reason to apprehend, in some instances, the public were defrauded for want of pre-existing checks and evidences of payment having been made.—This suspension continued for the term of two years, which was till March 1794. In the mean time, viz. on the 12th of February 1793, the act "relative to claims against the United States, not barred by any act of limitation, and which had not been already adjusted," was passed by Congress, after a serious and attentive consideration of the subject.

By that law, it was provided, "That all claims upon the United States, for services or supplies, or for other cause, matter or thing, furnished or done, previous to the 4th day of March, 1789, whether founded upon certificates or other written documents from public officers, or otherwise, which had not already been barred by any act of limitation, and which should not be presented at the Treasury, before the first day of May 1794, should forever after be barred and precluded from settlement or allowance." But this was not to be construed as affecting Loan Office certificates, certificates of final settlements, indents of interest, balances entered in the books of the register of the treasury, registered certificates, foreign loans, or certificates issued under the act making provision for the public debt of the United States."

One other act, passed the 3d day of March, 1795, provided, that Loan Office certificates, final settlements, and indents of interest, then outstanding, should be presented at the office of the auditor to the treasury, on or before the first day of January, in the present year, 1795, or be forever after barred or precluded from settlement or allowance.

This summary contains a general view of the principal acts of limitation, by which claims against the public have been affected. From an attentive consideration of them, and of the circumstances under which they were enacted, the committee are fully impressed with an opinion, that it would not be expedient to suspend their operation.

It was essential to the public administration, that the extent of just demands upon the government, should be, within a reasonable period, definitely ascertained. It was essential to the public safety and to right, in relation to the whole community, that all unsettled claims should be made known within a time when there were yet means of proper investigation, and after which the public responsibility should terminate; and the possibility of charging the government by collusive and fictitious contracts, should be at an end.

The justice as well as policy of acts of limitation, under such circumstances, cannot be doubted.

The situation of no country ever presented a more clear necessity for, or a more competent justification of precautions of that nature. And all the reasons for adopting them operate to recommend unusual caution in departing from them, with the additional force of this circumstance, that the subsequent lapse of time has increased the difficulties of a due examination.

The accounts of a considerable number of officers, who had in their power to bind the public by their contracts, and who were entrusted with large sums of money for fulfilling their engagement, remain unsettled; some of those persons are dead; others have absconded; the business has been conducted by others, with so little order, as to put it out of their power to render a proper statement of their transactions; the books and papers of others, who had extensive trusts, have been destroyed, so as to preclude the possibility of settlement. Hence it must appear that the government would, in a great number of cases, be destitute of the means of repelling unfounded and even satisfied claims for want of documents and vouchers, which could only have resulted from a default with those officers, and from the possession of their books and papers.

It might be inferred without proof, and it has appeared in the course of business at the treasury, that it was a practice with certain public officers, on obtaining supplies to give receipts and certificates for them, and when they made payments, either partially or totally, to take distinct receipts from the parties, without either endorsing the payments upon the original vouchers, or requiring a surrender of them.

Hence it would often happen that parties could produce satisfactory vouchers of their having performed services, and furnished supplies, for which, though satisfaction may have been made, the evidences of it would not be in the possession of the government. And hence, from relaxations of the

limitation acts, there would be great danger that much more injustice would be done to the United States, than justice to individuals.

The principles of self defence therefore require, and justify an adherence to those acts generally; and there are not any particular species of claims, which, in the view of the committee, ought to be exempted from their operation.

Those which have been most frequently referred to by some members of the house, are such claims as include the arrearages of pay and other emoluments to officers and soldiers of the late army, &c.

Pursuant to an order of the house, at the first session of the last congress, a report was made to them, having special reference to this subject. It was considered in committee of the whole, and agreed to by the house, on the first day of February, 1796.—To that report and the documents accompanying the same, the committee ask leave to refer the house, and respectfully submit the whole subject to their consideration.

Mr. D. FOSTER said, the Report itself had stated the reasons of the Committee for making it, so fully, that he thought it unnecessary to do more than move that the house concur with it.

Mr. GALLATIN observed, that this report went upon two principles; first, that sufficient time had been given for claimants to come in, and that therefore it was always the fault of themselves, if their claims were not allowed; and the other was, the danger of fraud that would attend the settlement of unliquidated accounts, from the want of proper checks. Taking it for granted that the committee of the whole would concur in the report, he should make a motion to except a class of claims which did not come within the operation of these objections, to the possessor of which, due notice had not been given of their being barred, and which were already liquidated. The description which he alluded to were Land-Office Certificates, Final Settlements, and Indents of Interest. It was to be observed that on the 12th of February 1793, an Act was passed relative to claims, which required them to be presented at the Treasury before the 1st of May 1794, or they would be forever barred, but these descriptions of claims were excepted. Public notice was given of this act, so that the country might become well acquainted with it. But an act had been passed on the 3d of March, 1795, making further provision for the support of Public Credit, and the reduction of the Public Debt, which was a long act, relating to different objects respecting the Public Debt; but in the middle of it there was a section inserted, requiring all Loan-Office Certificates, Final Settlements, and Indents of Interest, to be funded within two years. This act was foreign to the subject, and there was nothing in it to lead to a supposition that such an article would be found in it; nor had the law been published in the newspapers, or any means taken to acquaint the holders of this property with it. He could not, therefore, conceive that it was consistent with public credit, or good faith, to pass a limitation-law in such a way. He therefore hoped the law would be suspended, so as to give due notice to the holders of these species of paper, that it was intended to be barred. He knew there were strong objections against suspending Acts of Limitations, an account of frauds and forgeries; but he did not think these of sufficient weight to prevent justice from being done to this class of Public Creditors. The provision barring these claims was little known. He himself knew nothing of it, until he had occasion to take a general view of all the Revenue laws of the United States, when he met with it in the middle of the act he had mentioned. He was himself wholly disinterested in the business, as he did not know an individual who was possessed of a Certificate of this kind. How many there were, he knew not, or how much danger there might be in the suspension he could not tell; but he was struck with the injustice of thus barring this description of claims. He, therefore, proposed the following Resolution for the adoption of the Committee:

"Resolved, That so much of an Act entitled an Act making further provision for supporting Public Credit, and for reducing the Public Debt, passed March 3, 1795, as bars from settlement, after a limited time, Loan-Office Tickets, Final settlements, and Indents of Interest, be suspended for a certain time."

Mr. N. SMITH allowed that the gentleman from Pennsylvania had shewn to his satisfaction that it would have been much more proper to have had the law in question a distinct act, than in the act in which it had been introduced; & he regretted that that gentleman had not been sufficiently awake when the law passed, to have prevented the evil, as it had passed the House since he was a member of it. But, at this time, it presented to his mind a different question. This species of paper was now dead by law. To pass an act to revive and bring it again into existence, was a very different thing from acting originally right. That gentleman had, however, not noticed the impropriety at that time, which he lamented; but could not consent to its being revived at this day, which would be to encourage a spirit of speculation, that would deprive the real holders of the certificates of any benefit, and throw money into the hands of persons no way entitled to it. Here, said he, is a species of paper destroyed by an Act of Limitation, not by a separate act, but by a clause of an act on a different subject. The consequence would be, that designing, evil speculators, who may perhaps have interest enough to procure a repeal of this law, by an application to Congress, will buy up this paper for a mere trifle from persons believing it to have been destroyed by law. The moment this question was agitated, the speculation would have a beginning. He did not know that it had already commenced; but before the proposition got to the Senate, he doubted not that hundreds of persons would be purchasing this paper from persons who