

visions others may have against the public, these cannot affect the validity of theirs; that if they gain by the risk taken upon themselves, it is but the just reward of the risk; that as they hold the public promise, they have an undeniable demand on the public faith: that the best foundation of public credit is that adherence to literal engagements on which it has been erected by the most flourishing nations: that if the new government should swerve from so essential a principle, it will be regarded by all the world as inheriting the infirmities of the old.—Such being the interfering claims on the public, one of three things must be done; either pay both, reject wholly one or other, or make a composition between them on some principle of equity; To pay both is perhaps beyond the public faculties; and as it would far exceed the value received by the public, will not be expected by the world, nor even by the creditors themselves. To reject wholly the claims of either is equally inadmissible. Such a sacrifice of those who possess the written engagements, would be fatal to the proposed establishment of public credit. It would moreover punish those who had put their trust in the public promises and resources. To make the other class the sole victims, was an idea at which human nature recoiled.

A composition is the only expedient that remains; let it be a liberal one in favor of the present holders; let them have the highest price which has prevailed in the market; and let the residue belong to the original sufferers. This will not do perfect justice; but it will do more real justice, and perform more of the public faith, than any other expedient proposed. The present holders, where they have purchased at the lowest price of the securities, will have a profit that cannot reasonably be complained of; where they have purchased at a higher price, the profit will be considerable; and even the few who have purchased at the highest price, cannot well be losers with a well funded interest of six per cent. The original sufferers will not be fully indemnified; but they will receive from their country a tribute due to their merits, which, if it does not entirely heal their wounds, will allay the pain of them. He was aware, that many plausible objections would lie against what he suggested; some, which he foresaw, he would take some notice of. It would be said, that the plan was impracticable: should this be demonstrated he was ready to renounce it; but it did not appear to him in that light. He acknowledged that such a scale as had often been a subject of conversation, was impracticable—

The discrimination proposed by him, required nothing more than a knowledge of the present holders, which would be shewn by the certificates; and of the original holders, which the office documents would shew. It may be objected, that if the government is to go beyond the literal into the equitable claims against the United States, it ought to go back to every case where injustice had been done. To this the answer was obvious: The case in question is not only different from others in point of magnitude and of practicability, but forces itself on the attention of the committee as necessarily involved in the business before them. It may be objected, that public credit will suffer, especially abroad: He thought this danger would be effectually obviated by the honesty and disinterestedness of the government displayed in the measure, by a continuance of the punctual discharge of foreign interest, by the full provision to be made for the whole foreign debt, and the equal punctuality he hoped to see in the future payments on the domestic debts. He trusted also, that all future loans would be founded on a previous establishment of adequate funds; and that a situation like the present would be thereby rendered impossible.

He could not but regard the present case as so extraordinary, in many respects, that the ordinary maxims were not strictly applicable to it. The fluctuations of stock in Europe, so often referred to, bore no comparison with those in the United States. The former never exceeded 50, 60, or 70 per cent: can it be said, that because a government thought this evil insufficient to justify an interference, it would view in the same light a fluctuation amounting to 7 or 800 per cent.?

He was of opinion, that were Great Britain, Holland, or any other country, to fund its debt precisely in the situation of the American debt, some equitable interference of the government would take place. The South Sea scheme, in which a change amounting to 1000 per cent. happened in the value of stock, is well known to have produced an interference, and without any injury whatever to the subsequent credit of the nation. It was true that, in many respects, the case differed from that of the United States; but, in other respects there was a degree of similitude which warranted the conjecture. It may be objected, that such a provision as he proposed would exceed the public ability: He did not think the public unable to discharge honorably all its engagements, or that it would be unwilling, if the appropriations should be satisfactory. He regretted, as much as any member, the unavoidable weight and duration of the burdens to be imposed; having never been a proselyte to the doctrine that public debts are public benefits. He considered them, on the contrary, as evils which ought to be removed as fast as honor and justice would permit, and should heartily join in the means necessary for that purpose. He concluded with declaring his opinion, that if any case were to happen among individuals, bearing an analogy to that of the public, a court of equity would interpose for its redress; or that if a tribunal existed on earth, by which nations could be compelled to do right, the United States would be compelled to do something not dissimilar in its principles to what he contended for.

FRIDAY, FEBRUARY 12.

Sketch of the Debate on the question for committing the Memorials on the Slave Trade.

Mr. TUCKER said, that he was sorry there appeared to be so great a majority of the House in favor of giving the Memorial a second reading, as he conceived it to be so glaring an interference with the Constitution, that he had hoped the House would not have given so much countenance to a request so improper in itself.—He was sorry that the society had discovered so little prudence in their memorial, as to wish that Congress should intermeddle in the internal regulations of the particular States. He was sorry that another Memorial on the subject, signed by a person who ought to have known the Constitution better, had been offered to the House. He hoped the petition would not be committed, as it would operate directly against the interest of those it was designed to benefit: This is a business that may be attended with the most serious consequences: It may end in a subversion of the government, being a direct attack on the rights and property of the Southern States.—He then enquired what satisfaction was to be made to the proprietors of Slaves: He believed it was not in the power of the States, to make indemnification for the loss that would attend their emancipation: He reprobated the interposition of the society, and denied that they possessed any more humanity than other denominations.

Mr. Seney replied to Mr. Tucker, and desired the gentleman to point out any part of the memorial which proposed that the legislature should infringe the Constitution. For his part he heard nothing read that had such a tendency: Its only object was, that Congress should exert their constitutional authority to abate the horrors of slavery so far as they could. He hoped the petition would be committed—indeed he considered that all alteration on the subject of commitment was at an end, as the House had essentially determined, that it should be committed.

Mr. Burke reprobated the commitment, as subversive of the Constitution, as founding an alarm, and blowing the trumpet of sedition in the Southern States. He should oppose the business totally, and if chosen on the committee he should decline serving.

Mr. Scot was in favor of the commitment.

Mr. Jackson was opposed to it, and painted in strong colors the alarming consequences to be apprehended from taking up the business—revolt, insurrection, and desolation—and concluded by an observation similar to Mr. Burke's.

Mr. Sherman could see no difficulty in committing the memorial: The committee may bring in such a report as may prove satisfactory to gentlemen on all sides.

Mr. Baldwin referred to the principles of accommodation which prevailed at the time of forming the government. Those mutual concessions which then took place gave us a constitution which was to ensure the peace and the equal rights and properties of the various States: And to prevent all infraction of their rights in this particular instance, they precluded themselves by an express stipulation from all interposition in the slave trade. Congress are not called upon to declare their sentiments upon this occasion; they cannot constitutionally interfere in the business. He deprecated the consequences of such a measure in very forcible terms; and hoped the House would proceed no further in the investigation of the subject.

Mr. Sylvester said, that he always had been in the habit of respecting the society called Quakers; he respected them for their exertions in the cause of humanity; but he thought the present was not the proper time to enter into a consideration of the subject.

Mr. Lawrence observed that the subject would undoubtedly come under the consideration of the House, and he thought that as it was now before them, the present time was as proper as any; he hoped therefore that the memorial would be committed for the purpose of examination; when this examination has taken place, Congress may determine how far they may constitutionally interfere; and surely there is no danger of our exceeding our powers, we know what they are, and shall undoubtedly keep within their limits in all our deliberations and decisions.

Mr. Smith (S. C.) recurring to the memorials, observed that Congress could not constitutionally interfere in the business upon the prayer of the memorialists, as that went to an entire abolition of slavery: It could not therefore with propriety be referred to a committee.

In the southern States, difficulties on this account, had arisen in respect to the ratification of the constitution, and except their apprehensions on this head had been dissipated by their property's being secured and guaranteed to them by the constitution itself, they never would have adopted it. He then depicted the miseries that would result from the interference of Congress, in the southern governments—he asserted as his opinion that if there were no slaves in the southern States they would be entirely depopulated—that from the nature of the country it could not be cultivated without them—that their proprietors are persons of as much humanity as the inhabitants of any part of the Continent—they are as conspicuous for their morals as any of their neighbors. He then asserted that the Quakers are a society not known to the laws; they stand in exactly the same situation with other religious societies; their memorial relates to a matter in which they are no more interested than any other sect whatever; and it must therefore be considered in the light of advice; and is it customary to refer a piece of advice to a committee? He then contrasted this memorial with one which might be presented from the sect called Shaking Quakers, whose principles and practices are represented in a very exceptionable point of light, and asked, whether Congress would pay any attention to such a memorial.—He hoped that the memorial would not be committed.

Mr. Page was in favor of the commitment—he hoped that the benevolent designs of the respectable memorialists would not be frustrated at the threshold, so far as to preclude a fair discussion of the prayer of their memorial—he observed that they do not apply for a total abolition of slavery—they only request that such measures may be taken consistent with the constitution as may finally issue in the total abolition of the slave trade—he could not conceive that the apprehensions entertained by the gentlemen from Georgia and South-Carolina, were well founded, as they respected the proposed interference of Congress.—He observed that he was interested perhaps as much as any person in the consequences of the measures which may be adopted, but still he had no apprehensions of any disagreeable effects—on the contrary he thought it probable that the reverse would be the case—for if he was a slave he should think his condition much altered for the better in the prospect of a future liberation.—Mr. Page spoke low, we did not hear all his observations—they were extended much further.

Mr. Madison observed, that it was his opinion yesterday, that the best way to proceed in the business was to commit the memorial without any debate on the subject, from what has taken place he was more convinced of the propriety of the idea—but as the business has engaged the attention of many members, and much has been said by gentlemen, he would offer a few observations for the consideration of the House—he then entered into a critical review of the circumstances respecting the adoption of the constitution, the ideas upon the limitation of the powers of Congress to interfere in the regulation of the commerce in slaves—and shewed that they undoubtedly were not precluded from interposing in their importation—and generally to regulate the mode in which every species of business shall be transacted.—He adverted to the western country—and the session of Georgia in which Congress have certainly the power to regulate the subject of slavery, which shews that the gentlemen are mistaken in supposing that Congress cannot constitutionally interfere in the business in any degree whatever.—He was in favor of committing the petition, and justified the measure by repeated precedents in the proceedings of the House.

Mr. Gerry entered into a justification of the interference of Congress—as being fully compatible with the constitution—he descanted on the miseries to which the Africans are subjected by this traffic, and said that he never contemplated the subject, without reflecting what his own feelings would be in case himself, his children, or friends were placed in the same deplorable circumstances—he then adverted to the flagrant acts of cruelty which are committed in carrying on that traffic, and asked whether it can be supposed that Congress has no power to prevent such transactions as far as possible.—He then referred to the constitution and pointed out the restrictions laid on the general government respecting the importation of slaves—it is not, he presumed, in the contemplation of any gentleman in this House to violate that part of the constitution—but that we have a right to regulate this business is as clear as that we have any rights whatever—nor has the contrary been shewn by any person who has spoke on the occasion.—Congress can agreeable to the constitution, lay a duty of ten dollars a head on slaves—they may do this immediately—he made a calculation of the value of the slaves in the southern States—he supposed they might be worth about 10 millions of dollars, —Congress have a right if they see proper to make a proposal to the southern States to purchase the whole of them, and their resources in the western territory may furnish them with the means—he did mean to suggest a measure of this kind—he only instanced these particulars to shew that Congress certainly have a right to intermeddle in this business—he thought that no objection had been offered of any force to prevent the committing of the memorial.

Mr. Boudinot was in favor of the commitment and enlarged on the idea suggested by Mr. Gerry, and observed that the memorial contained only a request, that Congress would interfere their authority in the cause of humanity and mercy.

Mr. Gerry and Mr. Stone, severally spoke again on the subject, the latter gentleman in opposition to the commitment said, that this memorial was a thing of course—for there never was a society of any considerable extent which did not interfere with the concerns of other people, and this interference has at one time or other deluged the world in blood—on this principle he was opposed to the commitment.

ERRATUM. In Mr. Gerry's Speech, in our last, for "ultima rex regum," read ultima lex regum.

MONDAY, FEBRUARY 15.

Mr. Goodhue presented the petition of Hannah Treat, which was read and laid on the table.

Mr. Thatcher presented the petition of John Stone, stating that he had invented an improved method of driving Piles, by which the erecting bridges over rivers may be greatly facilitated—laid on the table.

On motion of Mr. Benson, the memorial of Brigadier General Donald Campbell was read a second time, and referred to a committee, consisting of Mr. Bland, Mr. Cadwallader and Benson.

On motion of Mr. Wadsworth, the petition of Isaac Trowbridge, was read a second time, and referred to the Post Master General.

In committee of the whole on the Report of the Secretary of the Treasury.

Mr. Madison's motion for a discrimination under consideration.

Mr. Sedgwick observed, that the proposition contained a question of the utmost importance: That the committee must be obliged to the gentleman who brought it forward, for his very ingenious discussion of the subject of the Domestic Debt.

With respect to the question now before the Committee, so much has been said, he thought it would not be necessary to consume much of their time in the investigation.

On the subject of Contracts he observed. When ever a voluntary engagement is made for a valuable consideration, for property advanced, or services rendered, and the terms of the contract are understood, if no fraud or imposition is practised, the party engaging is bound to performance according to the literal meaning of the words in which it is expressed.

That such contract, whether of a government or an individual, might be either transferable, or not transferable.

That the latter species of contract received an additional value from its capacity of being transferred, if the circumstances of the possessor should render a sale of it necessary or convenient to him.

That to render the transferable quality of such evidences of contract, in any degree advantageous to the possessor it was necessary to consider the alienee possessed, in case of sale, of all the property of the original holder; and indeed that it was highly absurd, and even contradictory to say, that such evidences of debt were transferable, at the same time to say, that there was in them a kind of property that the holder could not convey by bona fide contract.

That this was the construction which had invariably been given to these contracts whether formed by government or by individuals.

That to deprive the citizen of the power of binding himself by his own voluntary contract, or to prevent a disposition of property in its nature alienable, would be a violent and unjustifiable invasion of one of those rights of which man as a citizen is the most tenacious, and would indeed break one of the strongest bonds by which society is holden together.

That in the transfers which had been made, the contracts were fairly made; the whole rights had been transferred; that it was not pretended any fraud or imposition had been practised: the risk was calculated by the parties, and it was observed, that the risk contemplated a revolution in the government.

From the foregoing deduction of particulars, it was presumed to have been proved that a property was vested in the transferees. That if this property was divested by the government, the law for that purpose would have a retrospective operation, and that no *ex post facto* law could be more alarming than that by which the right of private property was violently invaded.

Having considered the nature of the contract, and of the obligations which resulted from it, the attention of the committee was called to advert to those circumstances by which that obligation might be destroyed, impaired or suspended. They were stated to be

1. Performance.
2. Voluntary discharge.
3. Composition.
4. Inability.

And gentlemen were called upon to give information of any other causes which could produce either of those effects.

With regard more particularly to the proposition before the committee, it was observed, that with regard to these contracts, there had existed a depreciation in consequence of the failure of government regularly to pay the interest: That in this depreciated state the securities had been alienated; that of course the original holders had sustained a loss; that if the loss resulted from the fault, and not the misfortune of the government, the creditor had undeniably a demand against the government for compensation; that this demand however well founded could never authorize the government to invade the honestly acquired property of the present possessors, a property warranted by the terms of the contract itself, and sanctioned by the Act of Congress of April 1783, and the validity of it recognized by the Constitution we had sworn to support.

With regard to the claims of the original holders it was, however, observed, that the domestic creditor at the time the contract was formed, well knew the nature of the constitution of the government administered by the other contracting party, Congress; that its power of performance depended on the ability and good will of the States; that Congress had always performed its duty, had made the necessary requisitions; that this was its utmost power; that the failure had arisen wholly from the neglect of the States. He therefore submitted to the committee, whether, if the original holder had a just or equitable demand, he should not resort to the state of which he is a member?

It was admitted that the case of an original holder was indeed a hard one; that the speaker had a respect for his misfortunes and for his pretensions; that if satisfaction was discovered to be just and practicable, he would not hesitate to go to the utmost ability of the government for that purpose. But it was asked, what merit it would the government possess, if it stripped one class of citizens who had acquired by the known and established rules of law, property, of that property, under the specious pretence of doing justice to another class of citizens.

It was observed, that it was implicitly agreed, that 80 per cent. depreciation would not authorize the interference proposed by the motion. It was asked that some point of depreciation should be pointed out which would authorize such interference.

It was observed that the side of the question for which he contended, had received the universal approbation of mankind; that there was no instance of interference contended for, and that this general sense of mankind afforded some evidence of truth.

It was said, that this contract was founded on a valuable consideration. It was the price of our liberty and independence. That the possessor claimed according to the very terms of the contract. That it was not pretended that the engagement of government had been performed. No composition with the creditor was proposed; nor was the proposition founded on any pretended inability of the government; for to comply with the intention of it, 1,600,000 dollars annually more, was necessary than was proposed by the report of the Secretary.

It was observed that by reason of the circumstances which had taken place Mr. Madison supposed that if the whole amount of a security shall be paid to the present possessor, he will have a sum of money to which the original holder is equitably entitled. If this is true then no interposition is necessary, it being a well known rule of law, that an action will always lie to recover money out of the hands of another to which the plaintiff from the principles of equity and good conscience is entitled.

With regard to the effects which would probably result from this measure, it was observed that it would be destructive to our national character: That the world was now willing charitably to impute our former miscarriages to events we could not control. But should our first measures in regard to public faith be a violent infraction of our contracts, it would sanction all our bitterest enemies have said to our disadvantage.

With regard to its effects on credit, it was observed, that little dependence would be placed on the plighted faith of a government which under the pretence of doing equity, had exercised a power of dispensing with its contracts, and had thereby formed for itself a precedent of like future violations both with respect to its funds and contracts.

That with regard to discovering who was the original holder, except so far as respected the army debt, it was declared that there were no documents by which the necessary facts could be discovered.

It was stated as a fact that with regard to much the greater part of the debt, any fictitious name was inserted. That with regard